

ESTTA Tracking number: **ESTTA340104**

Filing date: **03/31/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92046820
Party	Plaintiff Swatch AG
Correspondence Address	Jess M. Collen Collen IP The Holyoke-Manhattan Building, 80 South Highland Avenue Ossining, NY 10562 UNITED STATES jslocum@collenip.com, docket@collenip.com
Submission	Motion for Summary Judgment
Filer's Name	Jenny T. Slocum
Filer's e-mail	jslocum@collenip.com
Signature	/Jenny T. Slocum/
Date	03/31/2010
Attachments	SWAT Exhibits 1 - 19.pdf (101 pages)(4569101 bytes)

EXHIBIT 1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

Registrant : Motti M. Slodowitz
For : S.W.A.T.
Registered : November 14, 2006
Reg. No. : 3,172,010

Commissioner for Trademarks
Box TTAB - FEE
P.O. Box 1451
Alexandria, Virginia 22313-1451

PETITION TO CANCEL

SWATCH AG (SWATCH SA) (SWATCH LTD), a corporation duly organized and existing under the laws of Switzerland, located at Jakob-Stämpfli-Strasse 94, CH-2502 Biel/Bienne, Switzerland (referred to as "SWATCH" or "Petitioner") seeks the cancellation of the above-identified registration pursuant to 15 USC § 1052(e)(1) and TBMP § 307.02.

As grounds for cancellation, it is alleged that:

(1) SWATCH is and has been engaged in the sale and marketing in commerce since 1983 of a variety of goods including publications, collectible articles, watches, watch bands, clocks, electronic apparatus, clothing, candy, jewelry, accessories, key rings, displays containers, toys, retail and sporting and sports timing services, and a range of other goods under the trademark SWATCH. SWATCH has sold goods under its SWATCH trademark continuously since that time.

(2) SWATCH is the owner of the valid United States Trademark registration number 1,356,512 relating to watches and parts thereof. (See Exhibit A). SWATCH is also the owner of a variety of other valid United States Trademark registrations including:

SWATCH	Reg. 1,671,076 (watches, clocks and parts thereof)
SWATCH	Reg. 1,252,863 (watches incorporated with quartz and parts thereof)
SWATCH	Reg. 2,050,210 (magazines for watch collectors)

(See Exhibits B-D)

(3) Registrations 1,356,512, 1,671,076, and 1,252,863 are incontestable, pursuant to section 15 of the Trademark Act.

(4) SWATCH has used its mark in commerce extensively and has acquired a considerable and valuable goodwill and wide-scale recognition for its mark. The public has come to associate the SWATCH mark with Petitioner and Petitioner's goods. The SWATCH mark has acquired distinctiveness.

(5) Respondent, Motti M. Slodowitz, is and has been engaged in the sale and marketing of goods under the S.W.A.T. mark for goods and services including: watches, wrist and clip style.

(6) Respondent obtained a trademark registration on November 14, 2006. (See Exhibit E attached.)

(7) Respondent's mark is confusingly similar to Swatch's trademark SWATCH and is likely, when applied to the goods of the Respondent, to cause confusion, or to cause mistake or to deceive. 15 USC §1052(e).

(8) Consumers hearing the Respondent's mark will likely confuse it with the Petitioner's SWATCH trademark.

(9) Consumers encountering the Respondent's mark and goods are likely to believe that such goods originate from or are authorized or sponsored by the Petitioner, in view of the wide-scale fame of the Petitioner's mark and the indistinguishable differences between Petitioner's marks and the Respondent's mark and the same goods being associated with the Respondent's and Petitioner's marks.

(10) SWATCH is an innovative company which has associated its mark with a range of goods and services.

(11) The SWATCH mark is closely associated with watches.

(12) Use of the mark S.W.A.T. will be likely to lead consumers and potential consumers of the Respondent's goods to believe that the mark is related to the SWATCH family of marks. The use of S.W.A.T. serves to create a commercial impression that will cause consumers to be confused, and to believe that the Respondent's goods emanate from SWATCH.

(13) The Respondent has appropriated the Petitioner's trademark in its entirety, and has varied from Petitioner's mark by merely dropping the letters "CH."

(14) On information and belief, both the Respondent's mark and Petitioner's mark are likely to be sold through the same or similar channels of distribution.

(15) On information and belief, the Respondent has adopted its trademark with full knowledge of Petitioner's SWATCH trademark.

(16) The Petitioner's SWATCH mark is a famous trademark.

(17) On information and belief, the Applicant's mark is likely to diminish and dilute the value and distinctive character of Petitioner's famous SWATCH mark, thus damaging the Petitioner.

(18) Respondent's mark so resembles, SWATCH, the Petitioner's mark, as used in the United States and not abandoned, as to be likely to cause confusion, or to cause mistake or to deceive.

Petitioner SWATCH prays that Registration No. 3,172,010 be canceled, and that this Cancellation be sustained in favor of SWATCH.

Respectfully submitted for
Petitioner SWATCH S.A.

By: 

Jess M. Collen
COLLEN IP
The Holyoke-Manhattan Building
80 South Highland Avenue
Ossining, NEW YORK 10562
Ph: 914 941 5668
Fax: 914-941-6091

JMC/JTS:pm

Enc.: Cancellation Fee \$300.00
Duplicate Copy
Exhibits A-E

DATED: December 27, 2006

SHOULD ANY OTHER FEE BE REQUIRED, THE PATENT AND TRADEMARK OFFICE IS
HEREBY REQUESTED TO CHARGE SUCH FEE TO OUR DEPOSIT ACCOUNT 03-2465.

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING FILED ELECTRONICALLY
WITH THE UNITED STATES PATENT AND TRADEMARK OFFICE.

By: 

Dated: December 27, 2006

EXHIBIT A

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2006-01-03 17:17:35 ET

Serial Number: 73506848 Assignment Information

Registration Number: 1356512 Assignment Information

Mark

swatch

(words only): SWATCH

Standard Character claim: No

Current Status: This registration has been renewed.

Date of Status: 2005-09-19

Filing Date: 1984-11-02

Transformed into a National Application: No

Registration Date: 1985-08-27

Register: Principal

Law Office Assigned: (NOT AVAILABLE)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 40S -Scanning On Demand

Date In Location: 2005-12-02

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. SWATCH S. A.

Address:

SWATCH S. A.

JAKOB-STAMFLI-STRASSE 94

BIEL/BIENNE

Switzerland

Legal Entity Type: Corporation

State or Country of Incorporation: Switzerland

GOODS AND/OR SERVICES

International Class: 014

WATCHES AND PARTS THEREOF

First Use Date: 1982-05-31

First Use in Commerce Date: 1982-05-31

Basis: 1(a)

ADDITIONAL INFORMATION

Prior Registration Number(s):

1227456

1252863

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2005-09-19 - First renewal 10 year

2005-09-19 - Section 8 (10-year) accepted/ Section 9 granted

2005-07-18 - Combined Section 8 (10-year)/Section 9 filed

2005-09-09 - Assigned To Paralegal

2005-07-18 - PAPER RECEIVED

2003-02-24 - PAPER RECEIVED

1991-05-10 - Section 8 (6-year) accepted & Section 15 acknowledged

1991-01-24 - Section 8 (6-year) and Section 15 Filed

1986-09-15 - Cancellation terminated for Proceeding

1986-08-27 - Cancellation dismissed for Proceeding

1986-01-10 - Cancellation Instituted No. 999999

1985-08-27 - Registered - Principal Register

1985-06-18 - Published for opposition

1985-05-17 - Notice of publication

1985-04-19 - Approved for Pub - Principal Register (Initial exam)

1985-04-04 - Communication received from applicant

1985-01-31 - Non-final action mailed

CORRESPONDENCE INFORMATION

Correspondent

JESS M. COLLEN (Attorney of record)

JESS M. COLLEN

COLLEN IP

THE HOLYOKE-MANHATTAN BUILDING

80 S. HIGHLAND AVENUE

WESTCHESTER COUNTY, NY 10562

Domestic Representative

MCGLEW AND TUTTLE

EXHIBIT B

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2006-01-03 17:18:41 ET

Serial Number: 74079220

Registration Number: 1671076

Mark (words only): SWATCH

Standard Character claim: No

Current Status: This registration has been renewed.

Date of Status: 2002-03-01

Filing Date: 1990-07-17

Transformed into a National Application: No

Registration Date: 1992-01-07

Register: Principal

Law Office Assigned: LAW OFFICE 8

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -File Repository (Franconia)

Date In Location: 2002-03-05

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Swatch S.A.

Address:

Swatch S.A.
94 Rue Jakob Stampfli
Bienne
Switzerland

Legal Entity Type: Corporation

State or Country of Incorporation: Switzerland

GOODS AND/OR SERVICES

International Class: 014

watches, clocks and parts thereof

First Use Date: 1981-11-12

First Use in Commerce Date: 1981-11-12

Basis: 1(a)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2002-03-01 - First renewal 10 year

2002-03-01 - Section 8 (10-year) accepted/ Section 9 granted

2001-12-28 - Combined Section 8 (10-year)/Section 9 filed

1997-04-28 - Section 8 (6-year) accepted & Section 15 acknowledged

1997-04-08 - Section 8 (6-year) and Section 15 Filed

1992-01-07 - Registered - Principal Register

1991-05-14 - Published for opposition

1991-04-12 - Notice of publication

1991-01-03 - Approved for Pub - Principal Register (Initial exam)

1991-01-03 - Case file assigned to examining attorney

1990-12-13 - Case file assigned to examining attorney

CORRESPONDENCE INFORMATION

Correspondent

Jess M. Collen (Attorney of record)

JESS M COLLEN
THE HOLYOKE MANHATTAN BLDG
80 S HIGHLAND AVE
OSSINING NY 10562-5615

Domestic Representative
COLLEN LAW ASSOCIATES, PC

EXHIBIT C

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2006-01-03 17:18:59 ET

Serial Number: 73379925 Assignment Information

Registration Number: 1252863 Assignment Information

Mark

**swatch
QUARTZ**

(words only): SWATCH QUARTZ

Standard Character claim: No

Current Status: A Section 8 affidavit has been accepted.

Date of Status: 1990-11-02

Filing Date: 1982-08-13

Transformed into a National Application: No

Registration Date: 1983-10-04

Register: Principal

Law Office Assigned: (NOT AVAILABLE)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -File Repository (Franconia)

Date In Location: 1991-02-20

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. SWATCH S.A.

**Address:
SWATCH S.A.
9 ROUTE DE BOUJEAN**

BIENNER 2502

Sweden

Legal Entity Type: Corporation

State or Country of Incorporation: Sweden

GOODS AND/OR SERVICES

International Class: 014

Watches Incorporated with a Quartz and Parts Thereof

First Use Date: 1982-05-31

First Use in Commerce Date: 1982-05-31

Basis: 1(a)

ADDITIONAL INFORMATION

Disclaimer: "QUARTZ"

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2003-02-24 - PAPER RECEIVED

1991-02-04 - Section 15 acknowledged

1990-10-30 - Section 15 affidavit received

1990-10-30 - Section 8 (6-year) filed

1990-11-02 - Section 8 (6-year) accepted

1990-03-27 - Post Registration action mailed Section 8 & 15

1989-05-09 - Section 8 (6-year) and Section 15 Filed

1986-09-15 - Cancellation terminated for Proceeding

1986-08-27 - Cancellation dismissed for Proceeding

1986-01-10 - Cancellation Instituted No. 999999

1983-10-04 - Registered - Principal Register

1983-07-12 - Published for opposition

1983-07-12 - Published for opposition

1983-06-17 - Notice of publication

1983-06-16 - Notice of publication

1983-06-15 - Notice of publication

1983-05-02 - Approved for Pub - Principal Register (Initial exam)

1983-04-29 - Examiner's amendment mailed

1983-02-11 - Case file assigned to examining attorney

CORRESPONDENCE INFORMATION

Correspondent

JOHN J. MCGLEW (Attorney of record)

JOHN J. MCGLEW
MCGLEW AND TUTTLE
SCARBOROUGH STATION
SCARBOROUGH, NY 10510-0827

Domestic Representative

MCGLEW AND TUTTLE

EXHIBIT D

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2006-01-03 17:19:15 ET

Serial Number: 74641474

Registration Number: 2050210

Mark

swatch

(words only): SWATCH

Standard Character claim: No

Current Status: Section 8 and 15 affidavits have been accepted and acknowledged.

Date of Status: 2003-07-11

Filing Date: 1995-03-06

Transformed into a National Application: No

Registration Date: 1997-04-08

Register: Principal

Law Office Assigned: LAW OFFICE 108

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -File Repository (Franconia)

Date In Location: 2003-07-15

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Swatch AG (Swatch SA) (Swatch Ltd.)

Address:

Swatch AG (Swatch SA) (Swatch Ltd.)
94, rue Jakob Stampfli

2500 Bienne
Switzerland

Legal Entity Type: Corporation

State or Country of Incorporation: Switzerland

GOODS AND/OR SERVICES

International Class: 016

books and periodicals, namely a series of books illustrating collectable articles; magazines for watch collectors

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

Basis: 44(e)

ADDITIONAL INFORMATION

Prior Registration Number(s):
1252863

Foreign Registration Number: 402626

Foreign Registration Date: 1992-12-03

Country: Switzerland

Foreign Expiration Date: 2012-12-03

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2003-07-11 - Section 8 (6-year) accepted & Section 15 acknowledged

2003-04-10 - Section 8 (6-year) and Section 15 Filed

2003-04-10 - PAPER RECEIVED

2003-02-27 - PAPER RECEIVED

1997-04-08 - Registered - Principal Register

1997-01-21 - ITU claim deleted

1997-01-21 - Notice of Allowance canceled

1996-08-06 - Notice of allowance - mailed

1996-05-14 - Published for opposition

1996-04-12 - Notice of publication

1996-02-08 - Approved for Pub - Principal Register (Initial exam)

1995-12-01 - Communication received from applicant

1995-09-05 - Non-final action mailed

1995-08-22 - Case file assigned to examining attorney

1995-07-18 - Case file assigned to examining attorney

1995-07-13 - Case file assigned to examining attorney

CORRESPONDENCE INFORMATION

Correspondent

Jess M. Collen (Attorney of record)

JESS M. COLLEN
INTELLECTUAL PROPERTY LAW, P.C.
THE HOLYOKE-MANHATTAN BUILDING
80 SOUTH HIGHLAND AVE
WESTCHESTER COUNTY, NY 10562

Domestic Representative

INTELLECTUAL PROPERTY LAW, P.C.

EXHIBIT E

Int. Cl.: 14

Prior U.S. Cls.: 2, 27, 28, and 50

United States Patent and Trademark Office

Reg. No. 3,172,010

Registered Nov. 14, 2006

**TRADEMARK
PRINCIPAL REGISTER**

S.W.A.T.

**SLODOWITZ, MOTTI, M (UNITED STATES IN-
DIVIDUAL)
4625 W JEFFERSON BLVD
LOS ANGELES, CA 90016**

FIRST USE 2-0-2004; IN COMMERCE 2-0-2004.

SN 78-278,757, FILED 7-25-2003.

**FOR: WATCHES, WRIST AND CLIP STYLE, IN
CLASS 14 (U.S. CLS. 2, 27, 28 AND 50).**

**WILLIAM P. SHANAHAN, EXAMINING ATTOR-
NEY**

EXHIBIT 2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Trademark: S.W.A.T.
Reg. No.: 3,172,010
Reg. Date: November 14, 2006

TTAB
78278757

Swatch AG

Petitioner,

v.

Slodowitz, Motti M.

Registrant.

Cancellation No. 92046820

ANSWER TO PETITION TO CANCEL

Registrant, Motti M. Slodowitz ("Registrant"), by and through its undersigned attorneys of record, answers the Petition for Cancellation as follows:

1. In answering Paragraph 1 of the Petition to Cancel, Registrant is without sufficient information or knowledge to form a belief about the truthfulness of the allegations contained therein, thus denying same.

2. In answering Paragraph 2 of the Petition to Cancel, Registrant states that documents purporting to be photocopies of U.S. trademark registration information are attached, but Registrant is without sufficient information or knowledge to form a belief about the truthfulness of the allegations contained therein, thus denying same.

3. In answering Paragraph 3 of the Petition to Cancel, Registrant states that documents purporting to be photocopies of U.S. trademark registration information are attached, but Registrant is without sufficient information or knowledge to form a belief about the truthfulness of the allegations contained therein, thus denying same.

4. In answering Paragraph 4 of the Petition to Cancel, Registrant is without sufficient information or knowledge to form a belief about the truthfulness of the allegations contained therein, thus denying same.

5. In answering Paragraph 5 of the Petition to Cancel, Registrant admits same.

6. In answering Paragraph 6 of the Petition to Cancel, Registrant admits same.

7. In answering Paragraph 7 of the Petition to Cancel, Registrant denies same.

8. In answering Paragraph 8 of the Petition to Cancel, Registrant denies same.

9. In answering Paragraph 9 of the Petition to Cancel, Registrant denies same.

10. In answering Paragraph 10 of the Petition to Cancel, Registrant is without sufficient information or knowledge to form a belief about the truthfulness of the allegations contained therein, thus denying same.

11. In answering Paragraph 11 of the Petition to Cancel, Registrant is without sufficient information or knowledge to form a belief about the truthfulness of the allegations contained therein, thus denying same.

12. In answering Paragraph 12 of the Petition to Cancel, Registrant denies same.

13. In answering Paragraph 13 of the Petition to Cancel, Registrant denies same.

14. In answering Paragraph 14 of the Petition to Cancel, Registrant is without sufficient information or knowledge to form a belief about the truthfulness of the allegations contained therein, thus denying same.

15. In answering Paragraph 15 of the Petition to Cancel, Registrant denies same.

16. In answering Paragraph 16 of the Petition to Cancel, Registrant is without sufficient information or knowledge to form a belief about the truthfulness of the allegations contained therein, thus denying same.

17. In answering Paragraph 17 of the Petition to Cancel, Registrant denies same.

18. In answering Paragraph 18 of the Petition to Cancel, Registrant denies same.

AFFIRMATIVE DEFENSES

In further answer to the Petition to Cancel without waiver of any objection or an admission of sufficiency of the Petition to Cancel, Registrant asserts upon information and belief that:

1. Petitioner's Petition to Cancel fails to state a claim upon which relief can be granted, and in particular, fails to state legally sufficient grounds for sustaining the petition.

2. Registrant's use of its mark is not mistakenly thought by the public to derive from the same source as Petitioner's goods, nor will such use be thought by the public to be a

use by Petitioner or with Petitioner's authorization or approval.

3. Registrant's mark in its entirety is sufficiently distinctively different from Petitioner's mark to avoid confusion, deception or mistake as to the source or sponsorship or association of Registrant's goods.

4. Registrant's mark, when used on Registrant's goods, is not likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection or association of Registrant with Petitioner, or as to the origin, sponsorship, or approval of Registrant's goods by Petitioner.

RELIEF REQUESTED

WHEREFORE, Registrant respectfully requests that (a) this cancellation proceeding be dismissed, with prejudice and that the Registrant's registration remain in force.

Respectfully submitted,

MOTTI M. SLODOWITZ

Dated: January 24, 2007

By: 

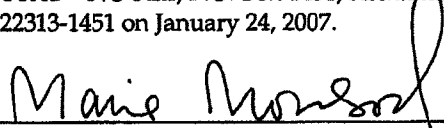
Dax Alvarez

Attorney for Registrant

12400 Wilshire Boulevard
Seventh Floor
Los Angeles, California 90025
(310) 207-3800

CERTIFICATE OF MAILING:

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop TTAB - NO FEE, P.O. Box 1451, Alexandria, Virginia 22313-1451 on January 24, 2007.


Marie Monsod

January 24, 2007

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing

ANSWER TO PETITION TO CANCEL

was served on counsel for Petitioner by U.S. first class, postage prepaid mail, addressed as follows:

Jess M. Collen
Collen IP
The Holyoke-Manhattan Building
80 South Highland Avenue
Ossining, New York 10562

Executed this 24th day of January, 2007 at Los Angeles, California.

By: _____


Marie Monsod

EXHIBIT 3

Int. Cl.: 14

Prior U.S. Cls.: 2, 27, 28, and 50

United States Patent and Trademark Office

Reg. No. 3,172,010

Registered Nov. 14, 2006

**TRADEMARK
PRINCIPAL REGISTER**

S.W.A.T.

**SLODOWITZ, MOTTI, M (UNITED STATES IN-
DIVIDUAL)
4625 W JEFFERSON BLVD
LOS ANGELES, CA 90016**

FIRST USE 2-0-2004; IN COMMERCE 2-0-2004.

SN 78-278,757, FILED 7-25-2003.

**FOR: WATCHES, WRIST AND CLIP STYLE, IN
CLASS 14 (U.S. CLS. 2, 27, 28 AND 50).**

**WILLIAM P. SHANAHAN, EXAMINING ATTOR-
NEY**

EXHIBIT 4

Int. Cl.: 14

Prior U.S. Cl.: 27

United States Patent and Trademark Office

Reg. No. 1,671,076

Registered Jan. 7, 1992

**TRADEMARK
PRINCIPAL REGISTER**

SWATCH

SWATCH S.A. (SWITZERLAND CORPORATION)
94 RUE JAKOB STAMPFLI
BIENNE, SWITZERLAND

FIRST USE 11-12-1981; IN COMMERCE
11-12-1981.

SER. NO. 74-079,220, FILED 7-17-1990.

FOR: WATCHES, CLOCKS AND PARTS
THEREOF, IN CLASS 14 (U.S. CL. 27).

ALICE SUE CARRUTHERS, EXAMINING ATTORNEY

EXHIBIT 5

Int. Cl.: 14

Prior U.S. Cl.: 27

United States Patent and Trademark Office

Reg. No. 1,252,863

Registered Oct. 4, 1983

TRADEMARK
Principal Register

swatch
QUARTZ

Eta S.A. Fabriques d'Ebauches (Switzerland
corporation)
Grenchen, Switzerland

For: WATCHES INCORPORATED WITH A
QUARTZ AND PARTS THEREOF, in CLASS 14
(U.S. Cl. 27).

First use May 31, 1982; in commerce May 31,
1982.

No claim is made to the exclusive right to use the
word "Quartz", apart from the mark as shown.

Ser. No. 379,925, filed Aug. 13, 1982.

JANIS MALTZ, Examiner

EXHIBIT 6

Int. Cl.: 16

Prior U.S. Cls.: 2, 5, 22, 23, 29, 37, 38 and 50

Reg. No. 2,050,210

United States Patent and Trademark Office

Registered Apr. 8, 1997

**TRADEMARK
PRINCIPAL REGISTER**

swatch

**SWATCH AG (SWATCH SA) (SWATCH LTD.)
(SWITZERLAND CORPORATION)
94, RUE JAKOB STAMPFLI
2500 BIENNE, SWITZERLAND**

**FOR: BOOKS AND PERIODICALS, NAMELY
A SERIES OF BOOKS ILLUSTRATING COL-
LECTABLE ARTICLES; MAGAZINES FOR
WATCH COLLECTORS, IN CLASS 16 (U.S. CLS.
2, 5, 22, 23, 29, 37, 38 AND 50).**

**OWNER OF SWITZERLAND REG. NO.
402626, DATED 12-3-1992, EXPIRES 12-3-2012.**

**OWNER OF U.S. REG. NO. 1,252,863 AND
OTHERS.**

SER. NO. 74-641,474, FILED 3-6-1995.

JERI J. FICKES, EXAMINING ATTORNEY

EXHIBIT 7

Int. Cls.: 6, 9, 16, 18, 20 and 28

**Prior U.S. Cls.: 2, 3, 5, 12, 13, 14, 21, 22, 23, 25,
26, 29, 32, 36, 37, 38 and 50**

Reg. No. 2,100,605

United States Patent and Trademark Office

Registered Sep. 30, 1997

**TRADEMARK
PRINCIPAL REGISTER**

SWATCH

SWATCH AG (SWATCH SA) (SWATCH LTD.)
(SWITZERLAND CORPORATION)
94 RUE JAKOB STAMPFLI
BIENNE, SWITZERLAND

FOR: METAL KEYCHAINS, IN CLASS 6 (U.S.
CLS. 2, 12, 13, 14, 23, 25 AND 50).

FOR: OPTICAL SPECTACLES AND SUN-
GLASSES, FRAMES FOR SPECTACLES,
CASES FOR SPECTACLES, SPECTACLE RE-
TAINING CORDS AND SPECTACLE RETAIN-
ING CHAINS, IN CLASS 9 (U.S. CLS. 21, 23, 26,
36 AND 38).

FOR: PENS, PENCILS, AND MARKERS, IN
CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND
50).

FOR: SUITCASES, TRAVEL BAGS, COSMET-
IC CASES (SOLD EMPTY), BRIEFCASE-TYPE
PORTFOLIOS, BRIEFCASES, WALLETs,
HANDBAGS, KEYHOLDERS, VANITY CASES
(SOLD EMPTY), UMBRELLAS, AND PARA-
SOLS, IN CLASS 18 (U.S. CL. 3).

FOR: NON-METAL KEYHOLDERS, IN
CLASS 20 (U.S. CLS. 2, 13, 22, 25, 32 AND 50).

FOR: TOYS WATCHES, BALLOONS, TOY
BALLS, TOY FLYING DISKS, TOYS AND
SPORTING GOODS, NAMELY GOLF BALLS,
TENNIS BALLS, VOLLEY BALLS, SOCCER
BALLS, FLIPPERS FOR SWIMMING, GOLF
BAGS, AND CLUBS, GOLF GLOVES, ICE
SKATES, ROLLER SKATES, AND IN-LINE
SKATES, SKATEBOARDS, SURFBOARDS,
ELBOW GUARDS AND KNEE GUARDS, IN
CLASS 28 (U.S. CLS. 22, 23, 38 AND 50).

OWNER OF SWITZERLAND REG. NO.
337298, DATED 12-21-1984, EXPIRES 12-21-2004.

OWNER OF U.S. REG. NO. 1,252,863 AND
OTHERS.

SER. NO. 74-579,325, FILED 9-28-1994.

JERI J. FICKES, EXAMINING ATTORNEY

EXHIBIT 8

Int. Cl.: 14

Prior U.S. Cl.: 27

Reg. No. 1,356,512

United States Patent and Trademark Office Registered Aug. 27, 1985

**TRADEMARK
PRINCIPAL REGISTER**

swatch

ETA S.A. FABRIQUES D'EBAUCHES (SWITZERLAND CORPORATION)
GRENCHEN, SWITZERLAND 2540

OWNER OF U.S. REG. NOS. 1,227,456 AND 1,252,863.

FOR: WATCHES AND PARTS THEREOF, IN CLASS 14 (U.S. CL. 27).

SER. NO. 506,848, FILED 11-2-1984.

FIRST USE 5-31-1982; IN COMMERCE 5-31-1982.

ROBERT PEVERADA, EXAMINING ATTORNEY

EXHIBIT 9

Int. Cl.: 42

Prior U.S. Cl.: 101

United States Patent and Trademark Office

Reg. No. 1,799,862

Registered Oct. 19, 1993

**SERVICE MARK
PRINCIPAL REGISTER**

swatch

**SWATCH SA (SWITZERLAND CORPORATION)
94, RUE JAKOB STAMPFLI
501 BIENNE, SWITZERLAND**

**FOR: RETAIL STORE SERVICES; NAMELY,
RETAIL SHOPS FEATURING WATCHES,
WATCH PARTS AND WATCH ACCESSORIES,
IN CLASS 42 (U.S. CL. 101).**

**FIRST USE 11-0-1991; IN COMMERCE
3-20-1992.**

**OWNER OF U.S. REG. NOS. 1,490,111, 1,671,076
AND OTHERS.**

SER. NO. 74-801,004, FILED 2-21-1992.

SASHA CARTER, EXAMINING ATTORNEY

EXHIBIT 10

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SWATCH

Goods and Services

IC 003. US 001 004 006 050 051 052. G & S: PERFUMES; COLOGNES; COSMETICS

IC 008. US 023 028 044. G & S: Razors

IC 009. US 021 023 026 036 038. G & S: Sunglasses; case for spectacles; leather eyeglass cases; spectacle retaining cords, and spectacle retaining chains; multifunction telecommunication apparatus; namely, combination telephone and answering machine, combination watch and computer; apparatus for telecommunication, transmission, reception, recording, and reproduction, namely, radios, telephones, televisions, audio, video, tape and cassette players and recorders; phonograph records and pre-recorded audio compact discs, tapes, and cassettes, all featuring music; pre-recorded video discs, tapes, and cassettes of athletic events, scientific and nautical apparatus, namely, satellite navigational systems, beepers, surveying apparatus, namely, surveying chains; photographic and cinematographic apparatus, namely, photographic cameras, cinematographic film; optical apparatus, namely, optical scanners, weighing apparatus, namely, scales and calibrating equipment; measuring apparatus, namely, lasers and pocket calipers for measuring purposes; signaling apparatus, namely, signal whistles, life saving apparatus, namely, life saving rafts; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity, namely, electric converters, electric transformers, voltage regulators for electric power, electric switches; apparatus for recording, transmission or reproduction of sound or image, namely, juke boxes, audio tape recorders, video tape recorders, video monitors

IC 011. US 013 021 023 031 034. G & S: APPARATUS FOR LIGHTING, NAMELY, ELECTRIC LIGHTING FIXTURE, WATER PUMPS FOR SPAS, BATHS, WATER FILTERING UNITS

IC 014. US 002 027 028 050. G & S: WATCH PROTECTORS; WATCHCASES; NECK CHAINS

IC 015. US 002 021 036. G & S: MUSICAL INSTRUMENTS

IC 016. US 002 005 022 023 029 037 038 050. G & S: Paper, namely, bags, envelopes, covers,

folders, note paper, art paper, carbon paper; photographs; albums, balls for ball point pens, booklets, books, boxes of cardboard or paper, calendars, cardboard articles and tubes, greeting cards, printed publications, namely, catalogues, magazines, manuals, and periodicals all in the field of horology and jewelry; printed timetables; clips for offices, folders for papers, postcards, notebooks, photograph stands, posters, prints, rubber erasers, table cloths, table mats, table linen, table napkins of paper, stationery; artist's materials, namely, pastels, pencils, paint brushes, painter's brushes; paper clasps, paper clips, crayons, pen cases, pencil and pen holders, pens and pencils, pencil sharpeners, wrappers, wrapping paper, writing cases, wristbands for retention of writing instruments

IC 018. US 001 002 003 022 041. G & S: Suitcases, travel bags, briefcase-type portfolios, briefcases, wallets, handbags, umbrellas, parasols, canes, backpacks, shoulder bags, cases of leather, namely, leather attache cases, purses, rucksacks, shopping bags

IC 020. US 002 013 022 025 032 050. G & S: FURNITURE; NON-METAL KEY HOLDERS; CHAIRS

IC 021. US 002 013 023 029 030 033 040 050. G & S: HOUSEHOLD OR KITCHEN UTENSILS NOT OF PRECIOUS METAL OR COATED THEREWITH, NAMELY, POT AND PAN SCRAPERS, ROLLING PINS, SPATULAS, TURNERS, WHISKS, HOUSEHOLD OR KITCHEN CONTAINERS NOT OF PRECIOUS METAL OR COATED THEREWITH; HAIR COMBS; SPONGES FOR HOUSEHOLD PURPOSES; HAIR BRUSHES; BRUSH-MAKING MATERIALS; ARTICLES FOR CLEANING PURPOSES, NAMELY, CLEANING RAGS, IMPREGNATED CLEANING, DUSTING OR POLISHING CLOTHS, STEEL WOOL FOR CLEANING; BEVERAGE GLASSWARE; PORCELAIN FIGURINES, PORCELAIN MUGS; EARTHENWARE MUGS

IC 022. US 001 002 007 019 022 042 050. G & S: Ropes, string, tents, awnings not made of metal; tarpaulins, sails, nets, namely, commercial nets, fabric and polyester mesh net used for storing toys and other household items, hammocks

IC 024. US 042 050. G & S: Towels, handkerchiefs, bed blankets, shower curtains, table cloths not of paper, table mats not of paper

IC 025. US 022 039. G & S: DOWN VESTS; WIND RESISTANT JACKETS; SKI BOOTS

IC 028. US 022 023 038 050. G & S: BOARD GAMES, GYMNASTIC AND SPORTS ARTICLES, NAMELY SKIS, SKI POLES, PORTABLE COVERS AND CASES FOR SKIS AND SKI BINDINGS, TENNIS RACKETS, TENNIS BALLS, TENNIS RACKET CASES AND COVERS, KITES, BALLS OF ALL KINDS, TOY FIGURES, SOFT-SCULPTURED DOLLS, AND STUFFED TOYS, TOY VEHICLES, SKATE BOARDS, ROLLER SKATES, BALLOONS, JIGSAW PUZZLES TOY WATCHES, TOY JEWELRY, CHRISTMAS TREE DECORATIONS, YOYOS, AND PLAYING CARDS

IC 029. US 046. G & S: MEATS AND PROCESSED FOODS, NAMELY, MEAT, CHICKEN, PROCESSED FRUITS AND VEGETABLES, CLAM CHOWDER

IC 032. US 045 046 048. G & S: BEVERAGES, NAMELY, FRUIT JUICE, VEGETABLE JUICE, CARBONATED SOFT DRINKS

IC 034. US 002 008 009 017. G & S: CIGARETTE AND CIGAR LIGHTERS NOT OF PRECIOUS METAL

IC 035. US 100 101 102. G & S: MANAGEMENT OF BUSINESS; ADVERTISING AGENCIES; COMPUTER ASSISTED PROCESSING OF DATA DERIVED FROM THE TIMING OF SPORTING ACTIVITIES FOR USE IN EDUCATION, ENTERTAINMENT AND PUBLICITY

IC 038. US 100 101 104. G & S: Electronic transmission of data derived from sporting events; and radio and television broadcast of programs and shows

IC 041. US 100 101 107. G & S: Providing of entertainment, namely, sporting and cultural activities

Mark Drawing (1) TYPED DRAWING

Code**Serial
Number** 78194325**Filing Date** December 13, 2002**Current Filing
Basis** 44E**Original
Filing Basis** 1B**Published for
Opposition** March 23, 2010**Owner** (APPLICANT) Swatch AG (Swatch SA) (Swatch Ltd.) CORPORATION SWITZERLAND 94, rue Jacob
Stämpfli Bienne SWITZERLAND 2500**Attorney of
Record** Jess M. Collen**Prior
Registrations** 1671076;1980517;2217468;AND OTHERS**Type of Mark** TRADEMARK. SERVICE MARK**Register** PRINCIPAL**Live/Dead
Indicator** LIVE

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EXHIBIT 11

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

SWATCH A.G.,	X	
	:	
Petitioner,	:	
	:	
V.	:	Cancellation No. 92046820
	:	
	:	Mark: S.W.A.T.
	:	
MOTTI M. SLODOWITZ,	:	Registration No. 3,172,010
	:	
Respondent.	:	
	X	

PETITIONER'S FIRST SET OF INTERROGATORIES

Petitioner, Swatch A.G. (hereinafter, "Swatch" or "Petitioner"), submits herewith for Answer by Respondent, Motti M. Slodowitz (hereinafter, "Respondent"), the following Interrogatories under Rule 33 of the Federal Rules of Civil Procedure. The Interrogatories shall be deemed continuing and Respondent is requested to serve upon Petitioner in the form of supplementary Answers, any additional information requested herein that may be known to Respondent after the date of Respondent's Answers to these Interrogatories.

INSTRUCTIONS AND DEFINITIONS

The following definitions and instructions are applicable to these Interrogatories:

- A. "Respondent" or "you" shall mean the named Respondent, Motti M. Slodowitz.
- B. "Petitioner" or "Swatch" shall mean the named Petitioner, Swatch A.G.
- C. "S.W.A.T. mark" means any mark which uses the term S.W.A.T., or any mark which incorporates the word S.W.A.T., or any variation thereof, and any spelling, phonetic, or

other equivalent thereof, whether used alone, in typed form, or in conjunction with a design and/or stylized element.

D. The terms "data", "document" and "documents" include all: originals and copies of all correspondence, papers, books, messages, publications, recordings, literature, letters, photographs, price lists, brochures, memoranda, notes, reports, drawings, diaries, or any information that is stored electronically or otherwise and is capable of being retrieved, and any other writings whether in final or draft form and whether or not such draft was actually used or completed, or any "document" as otherwise described in Federal Rule of Civil Procedure 34.

E. "Person" means any and all natural persons, as well as: corporations or other business entities, such as partnerships or sole proprietorships; groups; associations; governmental entities; and organizations of any description.

F. The terms "identify" and "state the identity of" shall mean a complete identification to the full extent known or ascertainable by the Applicant, whether or not in possession of the Applicant, and whether or not alleged to be privileged, including the following information:

- (1) The present depository or depositories and the name, address and phone number of the person or persons having custody of any item to be identified unless the item is a patent, public document or person;
- (2) For the item to be identified as a person, his or her full name, address, job title, present employers and phone number;
- (3) For the item to be identified as a document or paper, its character, title, date, addressee or recipient and author, signatory, or sender;
- (4) For the item to be identified as printed material, its title, author, publication date, volume and relevant page numbers;

- (5) If the identity sought is information about a situation or set of circumstances, all of the facts relating to or relevant to such a situation including the identity of persons with knowledge of such situation and the identity of all documents relating to, referring to, or otherwise pertinent to such a situation.
- (6) If the person to be identified is a corporation, or other legal entity, the laws under which it is organized, the date of organization, the principal place of business and phone number, and the name and address of the registered agent.
- G. If any privilege is alleged in response to any Request, or if any Request is otherwise not answered in full, state the specific grounds for not answering in full, and answer said Request to the extent to which it is not objected, including the identification of all information or material for which privilege may be claimed.
- H. The term "media outlet" is defined as any: individual printed publication such as a newspaper or magazine; broadcast television or radio station; cable channel; or Internet website.
- I. The term "trademark" shall encompass any and all trademarks and/or service marks (including certification marks and collective marks).
- J. The term "Products" means the items marketed and distributed by Respondent and/or the Services provided.
- K. The term "Swatch family of marks" is defined as "Petitioner's Swatch marks."
- L. All questions are to be read so as to give the question the broadest possible meaning, so that, for example, when either the term "and" or "or" is used, it is to be construed as "and/or". Similarly use of the singular also includes the plural, use of any female pronouns also includes the male, and so forth.

M. Unless noted otherwise, the geographic scope of these discovery requests is limited exclusively to the United States.

INTERROGATORIES

INTERROGATORY NO. 1

Indicate the name and address of any business which Respondent presently maintains in connection with trademark usage or trademark licensing in the United States and describe the type of business activities conducted.

INTERROGATORY NO. 2

Identify and describe each product sold or licensed by Respondent under the trademark S.W.A.T., or any misspelling, phonetic, or equivalent thereof, whether used alone, in typed form, or in conjunction with a design and/or stylized element.

INTERROGATORY NO. 3

Identify and describe each service performed by Respondent in the United States under the trademark S.W.A.T., or any misspelling, phonetic, or equivalent thereof, whether used alone, in typed form, or in conjunction with a design and/or stylized element.

INTERROGATORY NO. 4

For each product or service identified in the answers to Interrogatories 2 and 3 above, identify:

- (a) the city, state, or geographic regions in which said products are sold or services offered;
- (b) the identity of all relevant documents showing or describing such products and services;
- (c) the identity of documents related to such sales;

(d) the earliest date susceptible to proof of when Respondent made such sales of goods or services in the United States;

(e) the identity of all persons having knowledge of the foregoing.

INTERROGATORY NO. 5

Identify all trademarks under which you sell or offer for sale products in the United States.

INTERROGATORY NO. 6

Identify product literature or documents published by and for Respondent in connections with each of the products and/or services identified in the answers to Interrogatories 2 and 3, above, and indicate in your response whether those items identified comprise a complete listing or a representative sampling.

INTERROGATORY NO. 7

With respect to the products sold by Respondent under the S.W.A.T. mark, describe in detail the channels of trade in which such product or products are marketed or sold.

INTERROGATORY NO. 8

Identify the person most knowledgeable of Respondent's promotional and advertising activities in the United States with respect to any products bearing any S.W.A.T. mark.

INTERROGATORY NO. 9

Identify the person most knowledgeable about the amount of gross sales in dollars in the United States with respect to any products sold by Respondent bearing the S.W.A.T. mark.

INTERROGATORY NO. 10

As to the product or products identified by Respondent as being sold or to be sold under the trademark S.W.A.T., set forth the amount of sales in dollars in the United States since the first sale, broken down on a yearly basis, for each such product.

INTERROGATORY NO. 11

Identify the customers to whom Respondent's goods bearing the S.W.A.T. mark are sold.

INTERROGATORY NO. 12

Identify the person most knowledgeable about the identity of Respondent's United States customers for any products bearing any S.W.A.T. mark.

INTERROGATORY NO. 13

Identify those individuals most knowledgeable about the nature of the S.W.A.T. watch goods sold under the trademark S.W.A.T.

INTERROGATORY NO. 14

Identify and explain the reasons for Respondent's choice of the term S.W.A.T. for its trademark.

INTERROGATORY NO. 15

Identify the person most knowledgeable about Respondent's use and decision to adopt "S.W.A.T." as a trademark.

INTERROGATORY NO. 16

Identify all alternative marks considered by the Respondent before adopting the S.W.A.T. trademark.

INTERROGATORY NO. 17

Identify each person having knowledge of the dates and/or circumstances surrounding Respondent's adoption, first use and/or alleged trademark use of the mark S.W.A.T.

INTERROGATORY NO. 18

Describe the documents in Respondent's possession, or of which has knowledge, which form the basis for the answers in Interrogatories 16 and 17 above.

INTERROGATORY NO. 19

Identify the person with the most knowledge concerning adoption and selection of designs for any products bearing any S.W.A.T. trademark.

INTERROGATORY NO. 20

Identify any searches conducted or authorized by Respondent in the United States Patent and Trademark Office or any other source in the United States, prior to the adoption and use of the S.W.A.T. mark.

INTERROGATORY NO. 21

Identify the results and contents of any searches as described in the answer to Interrogatory No. 20 above.

INTERROGATORY NO. 22

Identify each person you expect to examine during the testimony phase of this proceeding, and for each such witness, state the substance of his or her expected testimony.

INTERROGATORY NO. 23

Identify those documents you expect to introduce into evidence at the trial of this matter by stating the title and general nature of the document, and identify the person having custody, possession or control of the document.

INTERROGATORY NO. 24

Identify any periods in excess of three consecutive months since the date of Respondent's first use of the S.W.A.T. mark when the mark has not been used in relation to the sale of goods or offering of services.

INTERROGATORY NO. 25

Explain the reason for any periods of non-use identified in the answer to Interrogatory No. 24 above.

INTERROGATORY NO. 26

Identify any inquiry to Respondent from any person not a party to this action concerning any relationship between Respondent's S.W.A.T. mark and Petitioner's SWATCH mark.

INTERROGATORY NO. 27

Identify all third party uses of the mark S.W.A.T. in the United States of which Respondent is aware, through license agreements or otherwise, including but not limiting the answer to uses of the mark in the singular, plural, or uses in combination with other words, phrases or designs.

INTERROGATORY NO. 28

Identify any agreements between Respondent and any third party regarding the right to use the S.W.A.T. mark in the United States.

INTERROGATORY NO. 29

Explain how Respondent has obtained ownership of the mark S.W.A.T.

INTERROGATORY NO. 30

Identify each and every time Respondent sought the opinion of legal counsel – excluding any correspondence with an Examining Attorney for the United States Patent and

Trademark Office in connection with the prosecution of any pending application – concerning its rights to ownership of the S.W.A.T. trademark in the United States.

INTERROGATORY NO. 31

For any instance identified in the answer to Interrogatory 30 above, please identify the communications with legal counsel.

INTERROGATORY NO. 32

Identify each expert witness you expect to examine during the testimony phase of this proceeding, and for each such expert witness state the subject matter on which the expert is expected to testify and the substance of the facts and opinions to which the expert is expected to testify.

INTERROGATORY NO. 33

Identify all tags and/or labels used in connection for sale in the United States of goods bearing any S.W.A.T. trademark.

INTERROGATORY NO. 34

Identify the person most knowledgeable of Respondent's relationships with its suppliers and manufacturers regarding any products bearing any S.W.A.T. trademark.

INTERROGATORY NO. 35

Identify all instances within the knowledge of Respondent of actual confusion between the Respondent and the Petitioner.

INTERROGATORY NO. 36

Identify all documents which show all promotion and advertising activities surrounding the Respondent's S.W.A.T. mark, including annual expenditures.

INTERROGATORY NO. 37

Identify each of the media used by the Respondent to advertise goods bearing the Respondent's S.W.A.T. trademark in the United States.

INTERROGATORY NO. 38

Identify the specific media outlets utilized by the Respondent to advertise the Respondent's S.W.A.T. trademark in the United States, and the total dollar amount of advertising expense by the Respondent in each such media outlets for each of the prior five years.

INTERROGATORY NO. 39

Identify the person most knowledgeable about Respondent's allegations in its answer and affirmative defenses to this cancellation.

INTERROGATORY NO. 40

Identify all facts upon which Applicant intends to rely to support its contention that Petitioner has failed to state a claim under which relief can be granted.

INTERROGATORY NO. 41

Identify all persons who have participated in any way in the preparation of the answers or responses to these Interrogatories. If more than one individual is identified, then state specifically, with reference to Interrogatory numbers, the areas of participation of each such person.

INTERROGATORY NO. 42

Identify the location and general description of each document upon which Respondent intends to rely on in its affirmative defenses to this action.

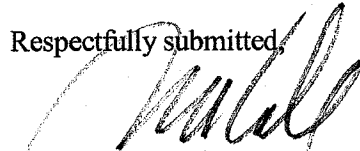
INTERROGATORY NO. 43

Identify the location and general description of each and every document you expect to introduce into evidence at the trial of this matter, including the date of the document and the title or general nature of the documents.

INTERROGATORY NO. 44

Identify the person having custody, possession, or control of the documents you intend to introduce into evidence at the trial of this matter.

Respectfully submitted,



Jess M. Collen
Jenny T. Slocum
Collen *IP*
The Holyoke-Manhattan Building
80 South Highland Avenue
Ossining, New York 10562
(914) 941-5668 Tel.
(914) 941-6091 Fax
Attorneys for Petitioner, Swatch A.G.

Dated: March 5, 2007

CERTIFICATE OF SERVICE

I hereby certify that on this date, I caused to be served a true and correct copy of each of the foregoing documents: Petitioner's First Set of Interrogatories, Petitioner's First Set of Requests for Documents and Things, and Petitioner's First Set of Requests for Admissions, on counsel for Respondent by U.S. First Class Mail, addressed as follows:

Dax Alvarez
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025

Dated: March 5, 2007

Signed: Chris Kasfmann
Chris Kasfmann

EXHIBIT 12

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

SWATCH A.G.,	X	
	:	
Petitioner,	:	
	:	Cancellation No. 92046820
V.	:	
	:	Mark: S.W.A.T.
	:	
MOTTI M. SLODOWITZ,	:	Registration No. 3,172,010
	:	
Respondent.	:	
	X	

PETITIONER'S FIRST SET OF REQUESTS FOR DOCUMENTS AND THINGS

Petitioner, Swatch A.G. (hereinafter, "Swatch" or "Petitioner"), submits herewith for production by Motti M. Slodowitz (hereinafter, "Respondent") this Request for Production of Documents and Things, pursuant to Rule 34 of the Federal Rules of Civil Procedure.

Petitioner, through its undersigned counsel, hereby requests Respondent, within thirty (30) days after service of these requests to produce the following documents and things to the attention and at the address of Petitioner's undersigned counsel's offices at Collen IP, THE HOLYOKE-MANHATTAN BUILDING, 80 South Highland Avenue, Ossining, New York 10562. This request shall be deemed continuing and requires production of any documents called for herein of any such documents which shall come within the custody or control of Respondent, or its agents or representatives at any time between Respondent's initial production and the further prosecution of this action. *Please note the Instructions and Definitions included in the Petitioner's First Set of Interrogatories apply to this Petitioner's First Set of Requests for Documents and Things.*

DOCUMENTS TO BE PRODUCED

REQUEST NO. 1

All documents on which Respondent intends to rely at the trial stage of this proceeding.

REQUEST NO. 2

All documents which refer to, relate to, or evidence first use in the United States of any S.W.A.T. trademark by Respondent.

REQUEST NO. 3

All documents which refer to, relate to, or evidence first use in interstate commerce in the United States of any S.W.A.T. trademark by Respondent.

REQUEST NO. 4

All documents relating to any application ever filed in the United States for federal or state registration of the trademark S.W.A.T. by Respondent.

REQUEST NO. 5

Representative invoices evidencing the sale of goods or services in the United States by Respondent under any S.W.A.T. trademark, for each year from the date of first use of the mark.

REQUEST NO. 6

All communications with any person other than Petitioner concerning a dispute or potential dispute between Respondent and Petitioner regarding ownership rights in the United States to any S.W.A.T. trademark.

REQUEST NO. 7

All documents referring to, relating to, or constituting a trademark search report conducted by Respondent or its agents on behalf of Respondent with respect to any S.W.A.T. trademark in the United States.

REQUEST NO. 8

All documents evidencing any and all State trademark registrations in the United States owned by Respondent for any S.W.A.T. trademark.

REQUEST NO. 9

All written documents that refer to Respondent's development and adoption of any S.W.A.T. mark.

REQUEST NO. 10

All written documents that refer to Respondent's development and adoption of any mark that contains the letters "SWAT."

REQUEST NO. 11

All documents evidencing or relating to any trademark registration certificates owned by Respondent for any S.W.A.T. trademark, in the United States, and in any state or territory.

REQUEST NO. 12

A representative sample of documents relating to the advertising in the United States of any goods sold by Respondent under any S.W.A.T. trademark, including invoices for the advertising services, for each year the mark has been used.

REQUEST NO. 13

A representative sample of documents relating to the promotion and marketing, including but not limited to point of sale and point of purchase materials, of any goods sold by Respondent in the United States under any S.W.A.T. trademark, for each year the mark has been used.

REQUEST NO. 14

Documents relating to the manufacturing or developing of goods or services to be used with any S.W.A.T. trademark.

REQUEST NO. 15

All documents evidencing all goods and services with which the Respondent's S.W.A.T. trademark is used in the United States.

REQUEST NO. 16

A listing of the Respondent's customers in the United States for goods sold under any S.W.A.T. trademark.

REQUEST NO. 17

Any lists used by the Respondent in direct mail advertising or solicitation with regard to any goods sold in the United States under any S.W.A.T. trademark.

REQUEST NO. 18

All documents relating or referring to the targeted consumers for any goods bearing the S.W.A.T. mark.

REQUEST NO. 19

All documents identifying any domain names or websites owned or operated by Respondent that include any S.W.A.T. information.

REQUEST NO. 20

Any tags or labels used by Respondent in connection with any S.W.A.T. trademark.

REQUEST NO. 21

Samples of actual goods sold, in the United States, under any S.W.A.T. trademark, with the mark clearly affixed in the ordinary manner in which the mark is affixed to the goods for sale in the ordinary course of business.

REQUEST NO. 22

Samples of actual goods sold, in the United States, under any S.W.A.T. trademark, with the mark clearly affixed in the ordinary manner in which the mark is affixed to the goods for sale by others authorized or in conjunction with Respondent in the ordinary course of business.

REQUEST NO. 23

A sample of the complete packaging in which each and every product sold by Respondent, in the United States, under any S.W.A.T. trademark is:

- a. Shipped from Respondent to Respondent's customers;
- b. Displayed at the point of sale to the ultimate users; and/or
- c. Contained when sold to the ultimate users.

REQUEST NO. 24

All documents identifying the channels of trade of the goods sold under any S.W.A.T. trademark.

REQUEST NO. 25

All promotional materials which accompany the goods sold under any S.W.A.T. trademark, to the consumer.

REQUEST NO. 26

All documents identifying any goods bearing the S.W.A.T. mark that are, or were, sold or advertised by Respondent.

REQUEST NO. 27

All documents identifying the number of goods bearing any S.W.A.T. mark that Applicant has sold in the United States.

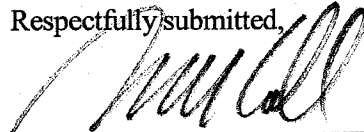
REQUEST NO. 28

All documents identifying goods Respondent plans to sell, market or develop in the future under any S.W.A.T. trademark.

REQUEST NO. 29

All documents that Respondent identified or was required to identify or from which Respondent obtained information in responding to Petitioner's First Set of Interrogatories, served simultaneously with this Request, and which documents have not been otherwise produced in response to Requests 1-28 above.

Respectfully submitted,



Jess M. Collen

Jenny T. Slocum

Collen *IP*

The Holyoke-Manhattan Building

80 South Highland Avenue

Ossining, New York 10562

(914) 941-5668 Tel.

(914) 941-6091 Fax

Attorneys for Petitioner, Swatch A.G.

Dated: March 5, 2007

CERTIFICATE OF SERVICE

I hereby certify that on this date, I caused to be served a true and correct copy of each of the foregoing documents: Petitioner's First Set of Interrogatories, Petitioner's First Set of Requests for Documents and Things, and Petitioner's First Set of Requests for Admissions, on counsel for Respondent by U.S. First Class Mail, addressed as follows:

Dax Alvarez
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025

Dated: March 5, 2007

Signed: _____

Chris Kaufmann
Chris Kaufmann

EXHIBIT 13

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

SWATCH A.G.,	X	
	:	
Petitioner,	:	
	:	
V.	:	Cancellation No. 92046820
	:	
	:	Mark: S.W.A.T.
	:	
MOTTI M. SLODOWITZ,	:	Registration No. 3,172,010
	:	
Respondent.	:	
	X	

PETITIONER'S FIRST SET OF REQUESTS FOR ADMISSIONS

Petitioner, Swatch A.G. (hereinafter, "Swatch" or "Petitioner"), by and through its undersigned counsel, hereby propounds the following requests for admission to Respondent, pursuant to Rules 26 and 36 of the Federal Rules of Civil Procedure, and 37 C.F.R. §2.120(h). In accordance with Rule 36, each request will be deemed admitted unless Respondent respond to such request separately, in writing, and within thirty (30) days by returning same to the Petitioner, and otherwise in accordance with Rule 36.

INSTRUCTIONS

- A. The Instructions and Definitions set forth in Petitioner's First Set of Interrogatories, served concurrently, are incorporated herein by reference and made a part hereof, as if fully stated herein.
- B. These instructions are continuing and to the extent that the answers may be enlarged, diminished or otherwise modified by information acquired by Respondent subsequent to the

service of answers hereto, Respondent is requested promptly thereafter to serve supplemental answers reflecting such changes, where required by the Federal Rules of Civil Procedure.

- C. In answering these requests for admission, Respondent is required to admit or deny each request based on information as is available to Respondent and its agents, including information in the possession of Respondent's attorneys, investigators and other representatives.
- D. For each of these requests for admission to which Respondent responds by asserting that it lacks sufficient information and/or knowledge, state in detail the information required to answer said admission, and the steps taken by Respondent to investigate and/or obtain information in order to answer said admission request. *Please note the Instructions and Definitions included in the Petitioner's First Set of Interrogatories apply to this Petitioner's First Set of Requests for Admissions.*

REQUESTS FOR ADMISSION

Admit or deny the following:

REQUEST NO. 1

All documents produced by Respondent in response to Petitioner's First Set of Requests for Documents and Things in this proceeding are genuine pursuant to the Federal Rules of Evidence.

REQUEST NO. 2

All documents produced by Respondent in response to Petitioner's First Set of Requests for Documents and Things in this proceeding are part of the business records of Respondent kept in the normal course of Respondent's business.

REQUEST NO. 3

All documents produced by Respondent in response to Petitioner's First Set of Requests for Documents and Things in this proceeding are admissible as evidence in this proceeding under the Federal Rules of Evidence, subject to any objections of Respondent on the grounds of relevance.

REQUEST NO. 4

Respondent has personal knowledge of the present, actual use (other than the parties to this proceeding and their assignees and licensees) of additional trademarks comprised in whole or in part of the word "S.W.A.T." or any spelling, phonetic, or other equivalent thereof, whether used alone, in typed form, or in conjunction with a design and/or stylized element.

REQUEST NO. 5

Respondent offers its goods and services in the United States through similar channels of trade as Petitioner offers its goods and services.

REQUEST NO. 6

Petitioner's marks are well-known in the United States.

REQUEST NO. 7

Petitioner's marks are famous marks.

REQUEST NO. 8

Respondent was aware of the existence of Petitioner's family of SWATCH marks prior to adoption and use of its own S.W.A.T. trademark.

REQUEST NO. 9

Respondent was aware of the existence of one or more of Respondent's marks prior to adoption and use of its own S.W.A.T. trademark.

REQUEST NO. 10

Prior to Respondent's filing for registration of opposed mark, Respondent was aware of the Petitioner's company.

REQUEST NO. 11

Prior to Respondent's filing for registration of opposed mark, Respondent was aware of one or more of Petitioner's marks.

REQUEST NO. 12

Prior to Respondent's selection of Respondent's mark, Respondent was aware of one or more of Petitioner's marks.

REQUEST NO. 13

The goods listed in Respondent's application for the mark, S.W.A.T., exist in the same International Class as goods listed in Petitioner's registration for Petitioner's family of SWATCH marks.

REQUEST NO. 14

Respondent uses the mark S.W.A.T. in the United States for wrist watches and clip watches.

REQUEST NO. 15

Petitioner used the mark SWATCH, in the United States for watches, among other goods.

REQUEST NO. 16

Respondent applied to register its mark S.W.A.T. in connection with goods listed in International Class 014, as depicted in Serial Number 78/278757, with knowledge of Petitioner's family of SWATCH marks.

REQUEST NO. 17

Petitioner owns the trademark SWATCH, as embodied in United States Trademark Registration Nos. 1,356,512; 1,671,076; 1,252,863; and 2,050,210.

REQUEST NO. 18

Petitioner's SWATCH mark as embodied in Registration Nos. 1,356,512; 1,671,076; 1,252,863; and 2,050,210 has acquired distinctiveness.

REQUEST NO. 19

Petitioner's SWATCH Registration Nos. 1,356,512; 1,671,076; and 1,252,863 are incontestable.

REQUEST NO. 20

Respondent's S.W.A.T. mark is only two letters different from Petitioner's SWATCH mark.

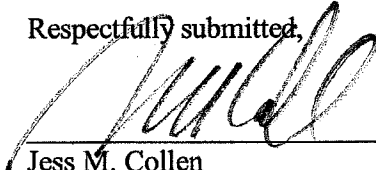
REQUEST NO. 21

Respondent's S.W.A.T. mark is confusingly similar to Petitioner's SWATCH mark.

REQUEST NO. 22

Respondent and Petitioner sell watches.

Respectfully submitted,



Jess M. Collen
Jenny T. Slocum
Collen IP

The Holyoke-Manhattan Building
80 South Highland Avenue
Ossining, New York 10562
(914) 941-5668 Tel.
(914) 941-6091 Fax
Attorneys for Petitioner, Swatch A.G.

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Dax Alvarez
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025

Dated: March 5, 2007

Signed: Chris Kaufmann
Chris Kaufmann

EXHIBIT 14



COLLEN IP
INTELLECTUAL PROPERTY LAW

Telephone (914) 941-5668

Facsimile (914) 941-6091

www.collnip.com

E-MAIL: JCOLLEN@COLLENIP.COM

June 18, 2007

VIA FIRST CLASS MAIL

Dax Alvarez

Blakely, Sokoloff, Taylor & Zafman

12400 Wilshire Blvd

Seventh Floor

Los Angeles, CA 90025

Re: Swatch A.G. v. Motti M. Slodowitz
U. S. Trademark Cancellation No. 92046820
Mark : S.W.A.T.
Reg. No. : 3,172,010
Our Ref. : 86255

Dear Mr. Alvarez:

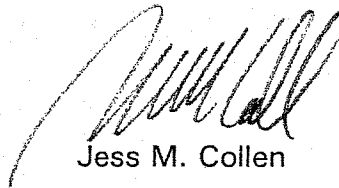
Redacted pursuant to F.R.E. 408

We also note that the Registrant's discovery responses are past due. As you will recall, on May 8, 2007 we agreed to a 30 day extension of the deadline for your client's discovery responses. This new deadline was therefore June 7, 2007. We have not received any responses to the discovery requests. We will consider all admission requests as deemed admitted.

Redacted pursuant to F.R.E. 408

We look forward to hearing from you.

Very truly yours,
COLLEN */P*



Handwritten signature of Jess M. Collen in black ink, featuring a stylized, cursive script.

Jess M. Collen

JMC:JTS

Enclosure: Catalog excerpt

Exhibit 1



EXHIBIT 15

San Francisco Examiner

IMAGE

MARCH 22, 1992

*Woody Harrelson
goes airborne in
Ron Shelton's
new movie*

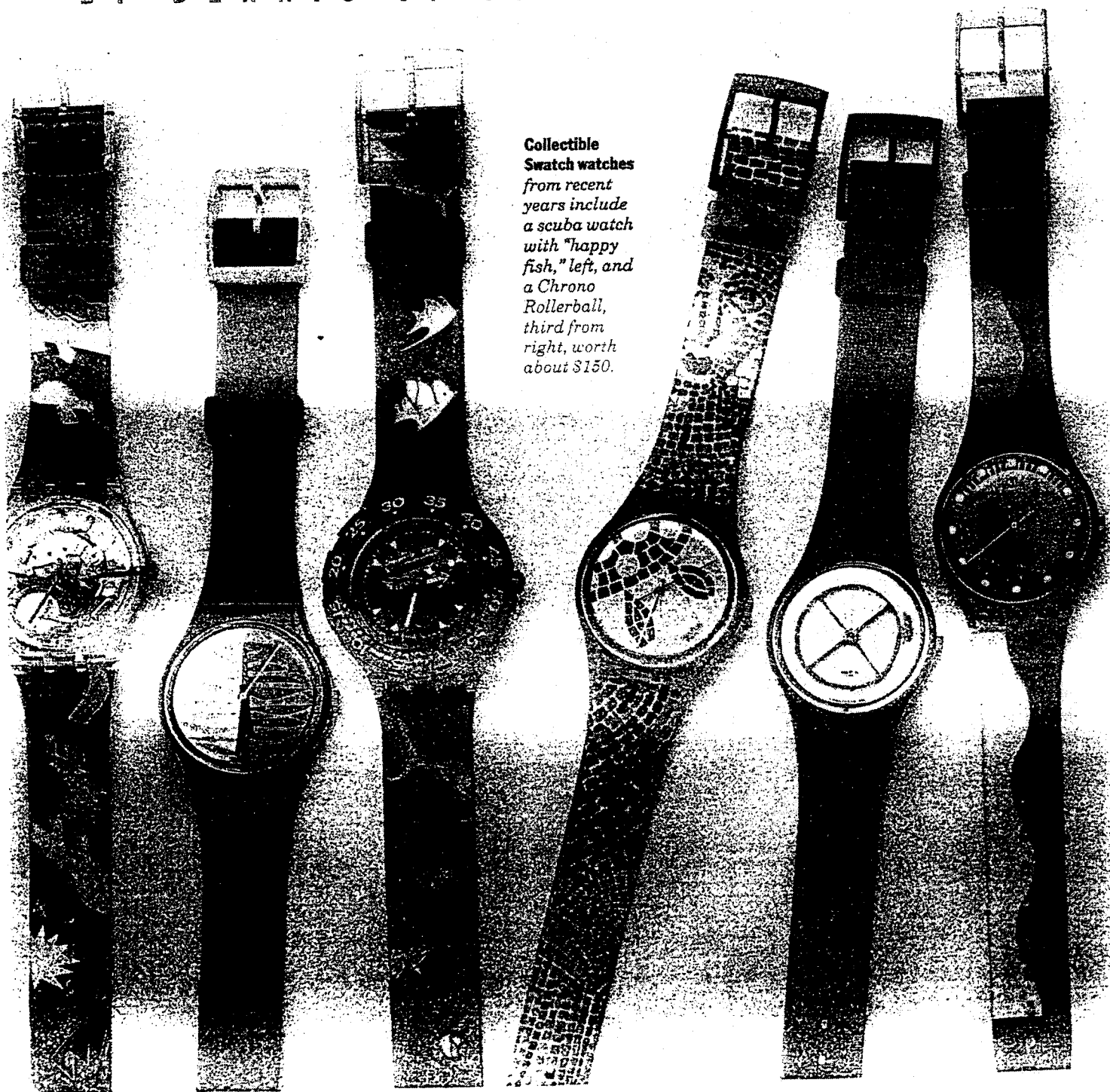
MAKING WHITE MEN JUMP
BY MICHAEL SRAGOW

TIME MONEY

Those little plastic Swatch watches have turned into hot, costly collectors' items

BY DENNIS J. OPATRYN

Collectible Swatch watches from recent years include a scuba watch with "happy fish," left, and a Chrono Rollerball, third from right, worth about \$150.



THEY'RE DRIVEN BY GREED, not just an appreciation of art, or even the need to tell time. They'll trample each other rushing into a department store or push shamelessly ahead in line once inside. They carry fistfuls of money and beg to buy more. They have crazed looks and grabby hands.

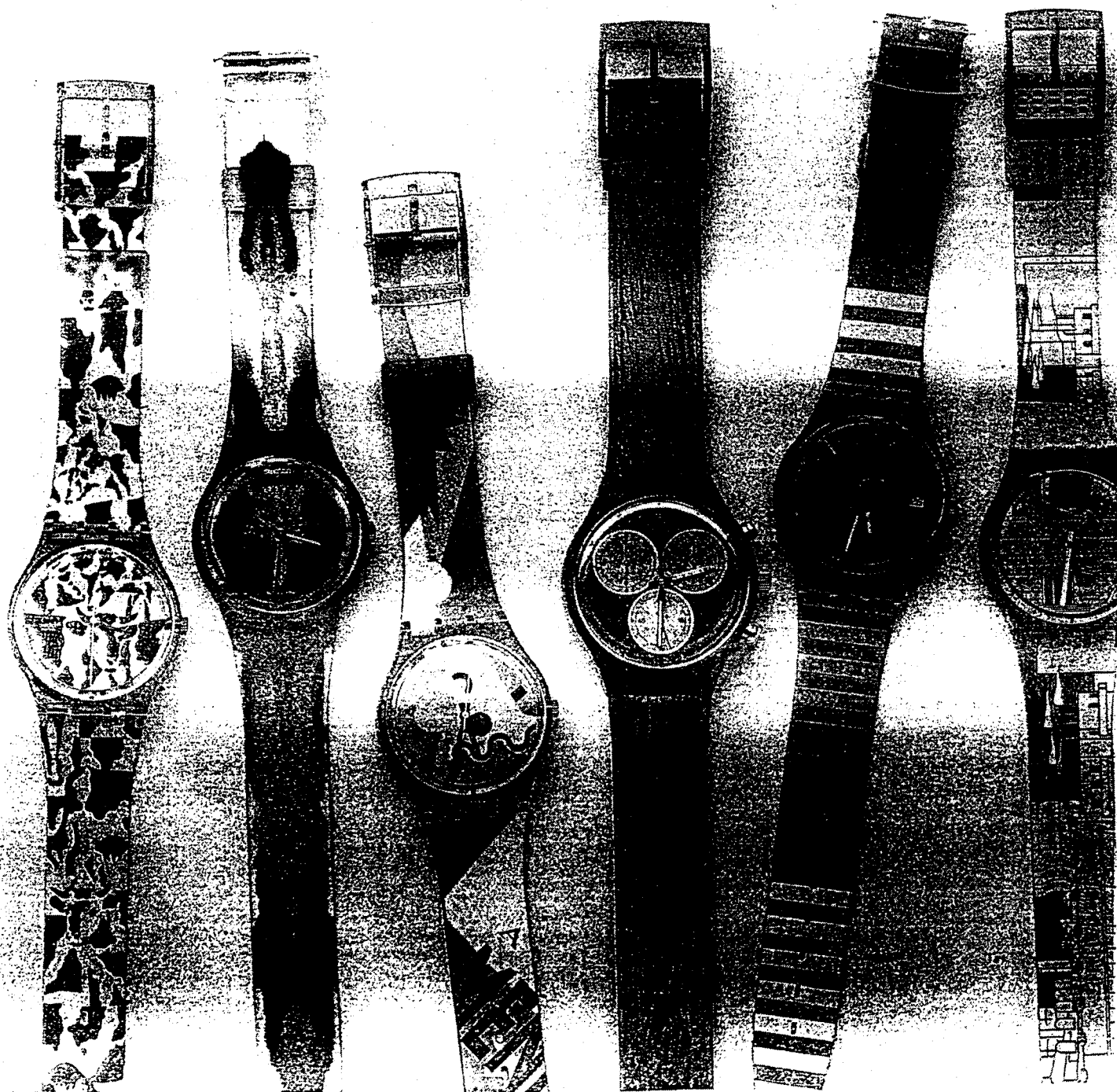
It's not a gaggle of autograph seekers or groupies hoping to touch their idol or hero. It's much weirder. What they're after are small, techni-colorful plastic watches and wrist bands that cost between \$40 and \$80. They know when special models go on sale, and which are the most coveted.

Big deal over a small watch? Well, it's not just *any* watch. It's a Swatch watch that may double or triple in value in a year or less. The price could also skyrocket into the thousands of dollars.

At a recent auction, a 1985 Swatch watch with a futuristic human head engraved on its face, designed by obscure French artist Kiki Picasso (no relation to Pablo), sold for \$46,000. It's probably worth over \$50,000 today. Only 140 of them were made. The watch face is always the same, but the color combination is different for each.

You who laughed in 1983 when Swatch introduced its first set of watches in the United States, you who snickered that they looked so tacky — you should know those first models are now worth \$1,500. You say you cleaned out your dresser drawer last year and chucked that plastic watch? How sad. You missed plastic fantastic Swatchmania, which is sweeping the country after having rolled across Europe for more than a year. It's an amazing

PHOTOGRAPH BY DOUG BENEZRA



phenomenon that will only grow. No collectors' item is hotter than Swatches.

Recently at San Francisco's Emporium, a store whose owners are in Chapter 11 bankruptcy and has difficulty wooing customers with half-off sales, 200 people waited in the rain for a glass door on Market Street to open. As it was unlocked, a vacuum-like whoosh sucked all those near through and toward the Swatch counter. Even the curious got carried along by the throng. An over-eager gate-crasher rushed ahead and got pulled back by his coat collar. Whoa, boy, wait your turn, he was warned.

They had come for a special sale of older Swatch "Chronos" watches with the precision of Swiss-made chronometers. They tell time with sweep hands, but also have small stopwatch dials for hours, minutes and seconds.

Swatches are no longer those small pink, white or green plain-faced watches many remember and were reluctant to wear. They're not now mistaken for kids' toys or Ken and Barbie accessories. They're not only timepieces but art pieces, and they're big business. Swatches give new meaning to the notion that time is money.

I know. I got caught up in the Emporium's Swatch sweepstakes. All I wanted to ask these Swatchmaniacs standing in the rain was: What's all the excitement? As I worked my way through the line doing interviews, it was suddenly my turn at the counter. Should I buy, I asked a woman. Of course, she said. So I pungled up \$80 for a Chrono called Goldfinger. Afterward I called Wolfgang Schneider, a leading American authority on Swatches. He publishes the *Swatch Collector's Guide*, a buyers' bible that lists the current value of nearly all the 600-plus different Swatch designs ever made.

"The Goldfinger is worth \$150," said Schneider, much to my glee. Hee, hee, I chuckled as I rushed back and bought another model called Rollerball. Schneider said this one is also worth \$150.

The values are real and climbing, but the profits are not immediate. To sell those Chronos I would have to contact a dealer or broker, such as Schneider, or list them on a computer bulletin board. Within a few days, a week — maybe longer — a transaction would be made. The more demand for the design, the easier to sell.

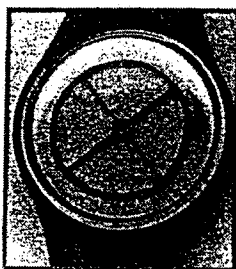
In Europe, canny publishers have started printing Swatch buy-and-sell catalogs in which Swatchmaniacs advertise. Articles on what's hot and not and might be are interspersed. Andrea Castilla of L'Anse, Mich., a Swatch collector and seller, places classified ads in Italian newspapers to buy and sell.

"I thought it was kind of a joke at first," said Castilla, a graduate of the Massachusetts Institute of Technology who discovered Swatchmania while visiting her sister in Europe last year. Now she has nearly 500 watches and is on the hunt for more.

"I could liquidate now and be money ahead, but I'm addicted and can't get myself to part with them," said Castilla, a biologist who now prefers the challenge of an import-export business.

Agostino Rosti of Bergamo, Italy, was in line to buy a Goldfinger at the Emporium, too. "This is very famous watch, cannot find in Italy," Rosti said in imperfect but clear English. "Will be worth \$200 minimum at home."

But Rosti played the Swatch market only for profit, not like many who value their functional use as well. A San Fran-



Wheel Armani
has no hands or numbers; the disc completes two rotations per day, to convey the feeling of time passing.

cisco lawyer, who requested anonymity, wears a different Swatch each day at the office or in court. "Many people are just bored wearing the same old Rolex every day," he said.

There are also Swatch collectors who lock their watches securely inside safe-deposit boxes in bank vaults, only occasionally paying them a visit to be held, fondled and admired.

It was surely a fate sealed by snobbery that Swatchmania began in Milan, Italy, the land of Armani, which needed an artfully oddball accessory to match its *haute couture* designs. As in high-fashion circles, there's Swatch spring-summer collections, then fall-winter designs.

Americans seem to learn about Swatchmania from friends. A good friend showed me his collection, started last year. As we talked, I examined each watch and realized Swatch had created more than just a watch.

Each of the collectors' models was indeed a piece of art. Many have been designed by artists such as Italian Mimmo Paladino, whose model sells for up to \$30,000, if you can find one of the 120 that were made. The late Keith Haring, a U.S. pop artist who made graffiti an art form, designed a four-piece set of Swatches priced at \$50 each; now those watches sell for up to \$5,500 apiece.

Not even Swatch had any idea its watches would trigger a stampede by collectors whenever new models were introduced. Swatch sales have transcended swap meets. Christie's, the prestigious London auction house, now includes Swatch collectibles in its clocks, watches and barometers catalogs for upcoming auctions.

The only person who has a complete collection, said Swatch spokeswoman Amy-Beth Chamberlin, is Matthias Pingel of Germany, who is only 18, but has been helped by his father to assemble the near-priceless collection. "Swatch didn't think far enough in advance to save them all," said Chamberlin.

What began in the early 1980s, when Swatch of Switzerland set out to recapture from the Japanese a share of the low-cost, reliable watch market, has become a multimillion-dollar timekeeping cult. A fellow named Ernst Thomke designed the first Swatch in 1980, with prototypes completed the next year.

Assembled in seconds by robot, a Swatch has only 51 parts compared to the 91 of regular quartz watches; its precision movements keep near-perfect time, losing only a few seconds a year. Since then Swatch has produced 80 million watches, with more coming in this year's spring-summer collection. They were intended as fashion mood statements. Wear a sporty model for tennis, a fancy sparkler for dinner.

"Why do people collect stamps?" asks Schneider, who said he has seen people wait seven hours in a San Francisco line to buy a new model. "People collect odd things. I know some who collect Coke cans." ■

Dennis J. Opatrny is an Examiner staff writer. The *Swatch Collector's Guide* is available for \$19.95 (plus shipping and sales tax) by calling 1-800-456-9276.

Today's crossword solution:

M	E	D	I	A	T	E	R	A	T	R	I	B	I	L	I	O	U	S
A	B	I	N	T	R	A	N	E	N	R	I	C	O	C	A	R	U	S
R	O	S	C	O	E	S	U	N	D	E	R	E	D	U	C	A	T	E
C	O	N	S	T	A	N	T	I	N	E	S	S	E	S	I	E	S	I
S	T	A	G	E	S	E	D	I	C	I	T	M	E	O	W			
T	E	R	N	S	S	N	O	R	E	H	A	D	D	I	N	N	E	R
A	N	D	I	S	C	I	E	N	T	E	J	A	R	D	I	N	I	E
B	E	E	T	E	R	T	I	E	C	U	R	I	L	I	N	I	G	I
S	T	R	O	P	P	E	D	B	A	R	I	G	I	E	S	H	O	D
E	I	T	E	B	U	R	G	I	N	O	Y	A	L	I	E	G		
M	I	S	C	O	E	J	E	S	T	E	R	I	S	A	G	U	T	I
I	N	C	H	T	R	A	S	H	I	N	G	S	M	U				
S	T	O	I	A	T	E	I	N	T	E	R	S	R	E	M	I	N	A
C	O	L	L	A	P	S	I	B	I	L	E	M	E	T	E	S	O	I
U	N	D	E	R	R	A	T	I	E	S	C	O	L	O	R	T	H	E
T	E	I	S	T	I	P	L	O	T	B	A	S	I	N	C	R	A	F
A	G	I	E	R	L	A	N	C	I	E	B	O	I	S	T			
H	A	I	K	U	L	O	R	D	I	F	L	O	R	D	S			
U	N	T	I	L	I	T	O	M	O	R	R	O	W	I	N	S	O	L
S	I	T	A	T	I	O	N	O	W	N	E	R	S	I	E	M	E	S
H	E	L	L	E	N	M	O	R	I	G	A	I	N	A	T	I	E	S

EXHIBIT 16

June 18, 1998
DOWNTIME

DOWNTIME; The Well-Dressed Wrist: Pager, Phone, Joystick . . . Watch

By DAVID PESCOVITZ
Correction Appended

TIME keeps on slipping into the future, as the Steve Miller Band's rock song has it. Wristwatches are doing their best to keep up.

These days, watch design is as much about technology as it is about horology. Sports watches with lap timers are enhanced with altimeters and pulse monitors. Built-in pagers provide instant accessibility, and data storage devices for the wrist may soon make the Filofax obsolete. In the near future, high-tech wristwear may even notify you of your exact position on the planet or, if you're diabetic, keep tabs on your glucose level.

The way people keep track of time changed in 1970 when a prototype of the first digital watch wowed the world with its bright red display and space-age design. Named after newly discovered stars that emit radio waves at regular intervals, the Pulsar from HMW hit stores in 1972 at a price of \$2,100.

Shortly after that, companies like Texas Instruments, Fairchild and National Semiconductor began mass-producing quartz digital watches, while research at R.C.A. and Kent State University led to the development of the first digital watches with liquid crystal displays.

"At that time, a very quiet replacement of all the guts of watches was taking place," said Carlene Stevens, curator in the history of technology division at the National Museum of American History in Washington.

"It was the same sort of thing that happened later with radios and telephones and just about every other consumer product," Ms. Stevens said. "The watches are very early markers in that consumer electronics revolution."

The museum, which is part of the Smithsonian Institution, has a Web site on the history of quartz watches (www.si.edu/lemelson/Quartz/index.html).

Digital watches -- like the first calculator watch, which was priced at \$4,000 with a gold case and a plastic toothpicklike tool for pushing the tiny keys -- were clearly marketed to the conspicuous consumer. But even with Texas Instruments' 1976 announcement of a \$20 digital watch, the market was quickly cornered by foreign lands using inexpensive labor, like Hong Kong.

"The chip makers failed because they found out it wasn't a chip business -- it was a jewelry business," said Louis M. Galie, vice president of research and development at the Timex Corporation.

But in recent years, the digital watch industry has changed into a telecommunications business, a computer business and a high-tech-sensor business. Function and form battle in the laboratories for real estate on the wrist.

"There's a group of products that fit well on your wrist," Mr. Galie said. "It's not necessarily the best place to put them,

it sure isn't the easiest place to put them if you're an engineer, but this category of products works best if they're always with you."

A pager is one example. Pager-watch combinations are nothing new. In 1991, Swatch came up with the Beep, the first watch-pager combination, and Seiko followed with its numeric Message Watch.

The most advanced watch-pager arrived late last year, when Motorola's Paging Products Group (which introduced a pager-watch that failed several years ago) and Timex put their heads, and wallets, together to come up with Beepwear. Bulky but effective, the \$129 Beepwear is the first pager-watch to use Motorola's Flex paging protocol, which enables text and number messages to be received in thousands of cities and towns across the country. In fact, Swatch in March announced a strategic alliance with Motorola to incorporate Flex technology into its paging products as well.

"Pagers are still the least expensive way to communicate," said Victoria Durkin, director of marketing for MTX Paging Products, the joint venture of Swatch and Motorola. "Besides, you can't keep a cell phone on all the time. The batteries just don't last."

That's the rub with Swatch Talk, a cordless telephone on a watch first demonstrated in March that works only within 300 yards or so of its land-line-connected base.

While the battery in the demo unit is said to provide less than an hour of talking time, Swatch says that the amount of talking time will be significantly increased before the watch goes to market next year.

Swatch's chief executive, Nicholas Hayek, said the solution to the battery problem was to create the power right on your wrist. The recently announced Swatch Autoquartz technology converts natural wrist motion into stored power with a tiny mechanical generator.

"With what we're developing now, you can practically talk indefinitely as long as you're moving, walking around a city for instance," he said.

Of course, watches outfitted with cellular phones are not much good if you cannot remember the number of the person you need to call. So watches that double as little black books hit the market.

"You don't always have your personal digital assistant with you," Mr. Galie said. "But for the last 75 years, people have always been wearing their watches. And I don't think that's going to change anytime soon."

It was the geek-chic calculator watch that led in the mid-1990's to the introduction of Timex's Data Link and Casio's Databank watches, which hold phone numbers, appointment reminders and memos.

Eliminating the need for a keyboard, the Data Link receives information like telephone numbers and schedules from a desktop computer when, using software developed by Microsoft, a user holds the timepiece in front of the computer monitor. The Data Link comes with a floppy disk for PC's; it is not available for the Macintosh.

A tiny receptor on the watch face converts flickers on the monitor into digital information. Appropriately enough, the next Beepwear model will have Data Link technology integrated into it.

Seiko hopes to bring more of a PC's power directly into the wristwatch itself. The Ruputer, released in Japan last week by Seiko Instruments, is compatible with Windows 95. Data can be fed into the watch by using a built-in miniature joystick to select characters of the alphabet or through infrared or wire connections to a desktop PC.

Another example of the increasing intelligence of watches with on-board computer chips is Swatch Access, released in 1995. With the same size and appearance of a traditional analog Swatch watch -- light plastic with stylized graphics -- Swatch Access has a tiny computer chip and a loop antenna that enable the contents in its memory to be read by an external scanner.

The majority of the three million Access watches sold so far have been bought by skiers and snowboarders at California's Snow Valley Ski Area and 300 other resorts around the world. Rather than receiving paper lift tickets, holders of season tickets or day passes simply pass the watch under a scanner at the ski lift and hit the slopes. In the ski-resort city of Salzburg, Austria, the Access is used as an electronic cash card; visitors buy credits that are loaded into the watch and then debited at pay points in restaurants and museums, and on public transportation.

"The ladies that have seen it said: 'We don't have to have a bag full of cards and checkbooks and money any more. We'll have it on our wrist,' " Mr. Hayek said.

But while high-tech watches keep pace with the digital technology that gave birth to them, the inevitable stress that accompanies their precision remains the same.

"The most common perception about time today is that we simply don't have enough of it," said Ms. Stevens, of the museum.

"There's an illusion that by scheduling yourself tightly and chopping time up into smaller and smaller fragments, you're expanding your day," she said. "But no matter what your watch does, it's not going to give you more time."

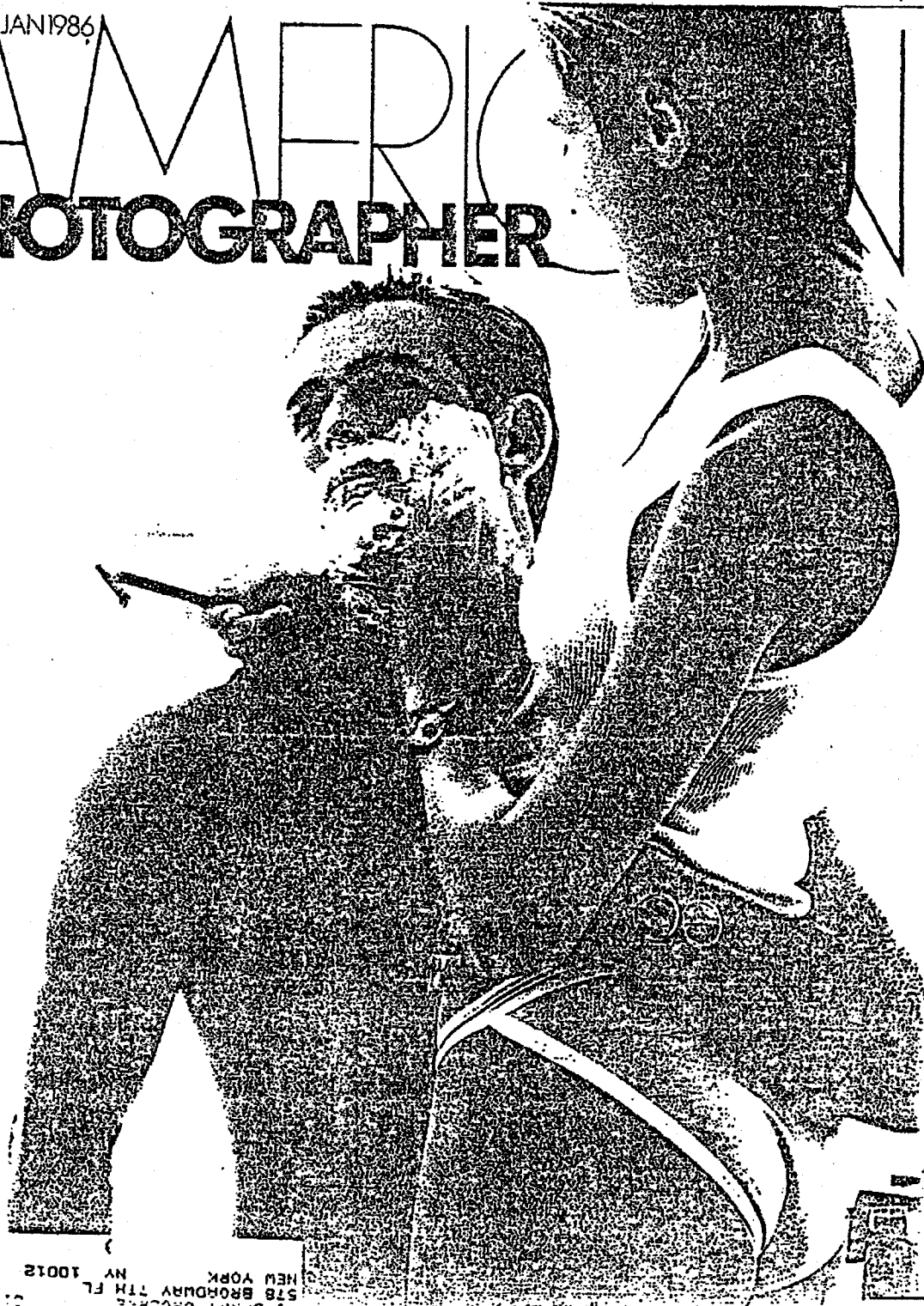
Chart/Photos: "Digital Watch Time Line" As time goes on, the number of gadgets that can be worn on the wrist keeps getting larger. 1972 -- Pulsar, the first digital quartz watch 1973 -- Seiko L.C.D. watch with first six-digit display 1975 -- Pulsar Calculator watch 1976 -- From Texas Instruments, first \$20 digital watch 1982 -- Seiko TV watch 1984 -- From Seiko, first watch with "computer functions" 1991 -- Swatch Beep 1994 -- Timex Data Link 1995 -- Swatch Access 1997 -- Timex/Motorola Beepwear 1998 Swatch Talk Casio Wrist Remote for TV Casio G-Shock Riseman (altimeter) Casio Databank Casio Workout (pulse sensor) 1998 -- Seiko Instruments Ruputer

EXHIBIT 17

A10

\$2.50 JAN 1986

AMERICAN PHOTOGRAPHER



STB BROADWAY 7TH FL
NEW YORK NY 10012

WORKING PAPERS
INSIDE ADVERTISING
TIME EXPOSURE

"Sophisticated fun"
is the new
Swatch word.

When the Swatch watch company decided this year to expand its offerings beyond popular, inexpensive watches, it went all out, introducing a rainbow array of accessories that included umbrellas, razors, sweat shirts, and sunglasses. Not surprisingly, Swatch decided to apply the same kitschy-image advertising to the accessories campaign that it used to introduce its timepieces.

To catch the eye of Swatch's 12- to 24-year-old target market, the company's in-house ad department—Nancy Kadner and Steve Rechtschaffner—spent \$500,000 to create and place an eight-page insert of their flashy new-wave advertising in the October 1985 issues of *Vogue*, *Glamour*, *Gentlemen's Quarterly*, *Seventeen*, and *Rolling Stone* magazines. They hired Swiss fashion photographer Ernst Wirz, 44, to shoot the campaign.

With an annual budget of more than \$10 million, Swatch's advertising department will produce at least 25 different ads in 1986, none of which will run for more than a month. Swatch's belief in high-volume advertising accounts in part for its high-volume sales—sales that leaped from \$3 million in 1983 to a projected \$150 million in 1985. That growth, reflecting two million Swatches sold in 1984, places Swatch second only to Seiko of Japan in unit sales.

The watches, selling for an average price of \$30, are firmly established in their niche as fashion accessories. Ads that show wrists decked out with three or four different Swatches have encouraged consumers to buy several at a time to color-coordinate with clothing.



Using natural light and a tripod-mounted 35mm, Wirz shot all the action photos in four days, with only one female and one male model

a really close relationship with high fashion."

After the U.S. ad team of Kadner and Rechtschaffner came up with the basic concept of "silly sophisticated fun," they discussed their ideas with Wirz, who in



Witz and Hainold chose two women and one man as models who, explains Witz, "corresponded with the 'new-wave' Swatch theme—a little crazy, a little outstanding."

Stylists Dawn Cies and Marianne Lebar "worked with us right from the start," says Witz, "to pick out clothing that would convey energy and youthfulness." The eclectic attire included lacy lingerie, polka-dot boxer shorts, and an elegant evening gown and tuxedo.

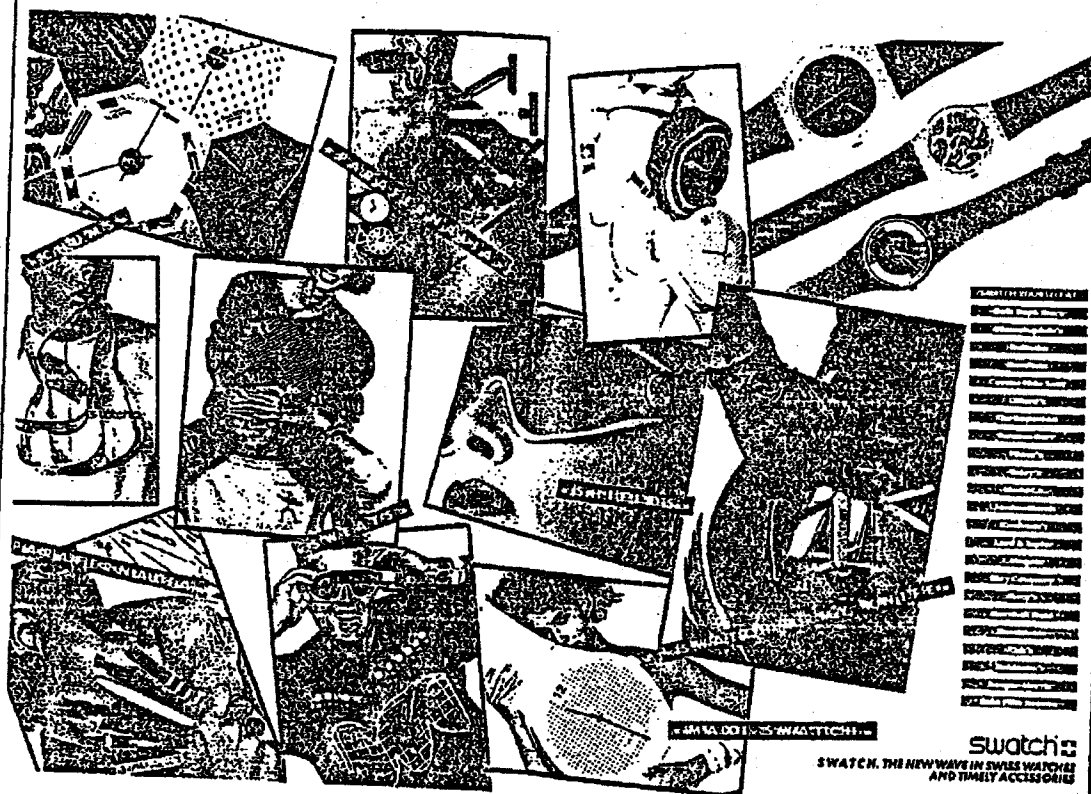
The four-day shoot was done in Switzerland, where costs are lower. Also, says Kadner, "the attitude there is really different from the way it is in the States. People are more flexible, more willing to take risks. You're not running on a clock like you are here."

Witz worked a ten-hour day, starting at 9 a.m. He shot as many as 60 rolls of daylight Ektachrome 64 each day with his Nikon F3. The shoot was originally scheduled for Zurich but was moved to Lugano in southern Switzerland because of Zurich's bad weather. To avoid working with an unfamiliar lab, Witz decided to wait until he returned to Zurich to process his results. "Of course, everyone wants to see the results while the shoot is happening," he says. "But I can't."

WORKING PAPERS

INSIDE ADVERTISING

"Outdoors there were more surprises, and that's what we were looking for."



tell just by looking through the camera whether it's successful."

Because none of the photographs was tightly choreographed, the group experimented with the products while shooting. One item—a functional seven-foot watch—was a real inspiration, Wirz recalls. "It's much easier to be funny with a product like this than it is with an ordinary wristwatch," says Wirz. He shot all his outdoor work with natural light. "There were a lot more opportunities for surprises that way, and that's just what

Wirz shot the product close-ups (above) in his studio, using Broncolor strobes. The bedroom scene (right) was shot on location in a Zurich apartment, with a mixture of strobe and natural light



we were looking for," he explains.

Adds Kadner: "What we're selling is the concept of the Swatch Shop—where you'll always find something new and fun." To further link the witty pictures to the whimsical products, Swatch has added 18 x 24-inch and 2 x 3-foot C-prints and Duratrans transparencies of the photos from the ads to its 300 Swatch Shops in department stores across the country.

Although Seventeen received complaints from parents who disapproved of finding Swatch's sexy European-style ads (in particular, the shot of a teddy-clad woman shaving a man) in the magazine's pages, Swatch's appeal is as up-to-the-minute as ever with its target audience. It's time, the company l

EXHIBIT 18

THE WALL STREET JOURNAL.

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Santa Suits Up: Red Coat (Check), Shades (Check), Swatch Watches...

By RICHARD GIBSON

Staff Reporter of THE WALL STREET JOURNAL

EDINA, Minn.—Yes, Madonna, there is a Santa Claus. And he dresses a lot like you.

In a bid to differentiate itself from other malls around Minneapolis and St. Paul this holiday season, the Galleria shopping center here has replaced old St. Nick with new "St. Slick"—a self-described "trendy" Santa. But shopkeepers and customers are divided over whether Slick isn't perhaps more tacky than trendy.

"It was risky for us to do," admits Marilyn Hundertmark, Galleria's promotion director. "We knew he'd either be very successful or be a bomb."

Shades for Santa

The differences start with Slick's outfit. The standard bright-red suit is present. But so are sunglasses. And Swatch watches. And high-top exercise shoes and lime-green triangles painted all over his suit. He pushes truffles and lobster-print pants, passes out cherry-flavored candy canes from his canvas carry-all and greets shoppers with: "Have a white-chocolate Christmas."

Marian Haugesag, who operates Muggins Doll House in the mall, says she and other merchants originally rejected the no-

tion of a holiday hipster as Santa but couldn't agree on a better idea. Still, she says, Slick doesn't fit the image of this affluent suburb. "Our customers are trend-setters, not trend followers," she explains.

A young clerk in a household accessories boutique says "it's a shame" that a traditional Santa wasn't good enough for the mall. "When you say 'trendy,' I see 15 little Madonnas running around," she says. But a shoe clerk in Pappagallo's next door thinks Slick is "kind of cute." She adds: "So often you see the same old Santa Claus—all turny."

A Slimmed-Down Slick

Slick, who looks like he hasn't been near a bowlful of jelly in years, is played by Alfred Harrison, a professional actor. Mr. Harrison, who often does mime, is armed with a script to help him on his promotional treks around town. One example:

"Q. What does Mrs. Slick do? A. She's a corporate lawyer specializing in escape chases. She's on maternity leave."

Mr. Harrison says he is supposed to project an image of "what's in, what's new." But he doubts whether St. Slick will be either next Christmas. "He just wouldn't have the same impact," he says.

EXHIBIT 19

ADWEEK

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Some Shops Buy In, Some Shops Buy Out *Those Still Available Can Beat Off Suitors 'With a Stick'*

NEW YORK—It was a good week—make that the best yet—to own a piece of an agency.

Consider, for example, that Ted Bates' acquisition of Jobs & Brady (see page 4) on Friday merely capped a week that also saw BBDO buy another shop in Boston (see page 5) and Shamrock Holdings boost its stake in Foote, Cone & Belding (see below). Saatchi & Saatchi Compton Worldwide, meanwhile, should have been weary from negotiating the marriage of its Dorland subsidiary to Dancer Fitzgerald Sample. But Britain's busiest shop was fresh enough to acquire Chicago's Tatham-Laird & Kudner (see below).

Japan's Dai-Ichi Kikaku took time out to announce that it had increased its ownership in Ally & Gargano to 21%,

which struck observers as particularly interesting in that the Tokyo-based company is already a minority shareholder in Doyle Dane Bernbach (see page 6). What better catalyst, some reasoned, for bringing the two shops of U.S. creative acclaim together. Surely, some of the telltale signs are already there (see "Shop Talk," page 38).

Alan Gottesman, an agency analyst at L.F. Rothschild, Unterberg, Towbin, summarized the week's frenzied pace by saying: "Nothing surprises me anymore." Because so few independents are left, he explained, those still available are in the enviable position of beating off prospective suitors "with a stick." That's why, he said, only half in jest, "I'm going into the stick business." Now that's leverage. □

**Bull Beats Appelman
To BJK&E. Page 2**

Saatchi Sets Shamrock Closer Sights on TLK To FCB Takeover

By Tom Delaney

NEW YORK—Saatchi & Saatchi Compton Worldwide, fresh from its Dorland subsidiary's marriage with Dancer Fitzgerald Sample (continued, page 6)

By Sarah Stiansen

NEW YORK—A takeover battle could be in the offing between Foote, Cone & Belding and Shamrock Holdings. And Wall (Continued on page 62)



Fun in the sand and sun for Swatch

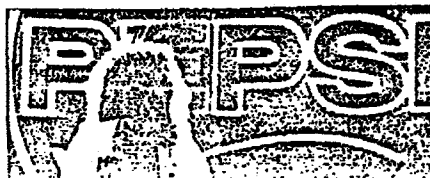
On the Beach With Swatch

To promote Swatch sportswear and accessories, Swatch USA teamed up with

Tina Turns It On in Pepsi Ads *Unique Local Marketing Strategy to Be Tested*

By Tom Delaney

NEW YORK—In an innovative "semi-global" strategy, Pepsi-Cola Co. is counting on singer Tina Turner's high notes to be heard around the world this



INSIDE ADWEEK

From Windy City to Big Apple

The Chicago Connection thrives within the JWT Group. Top execs have joined the JWT fiefdom in New York and moved on. But Burt Manning, chairman/ceo of Thompson/USA, is still there. Columnist George Lazarus speculates on his plans. (See page 10)

Accolades for an Angel

Jaclyn Smith's a hit again, not on a TV show but with K mart Apparel regional executives, who last week applauded her sales performance. Agency Ross Roy/Detroit gave Smith, who endorses her line of clothes sold exclusively at K mart, her own ad slogan. (See page 26)

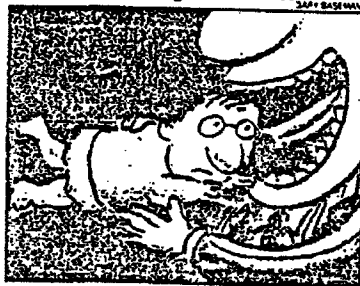
A Breath of Fresh Air

"Headless," a new spot for Binaca spray, takes the mortification out of the halitosis issue, writes Barbara Lippert in the ADWEEK "Critique." By using satire and irony, the spot puts bad breath into perspective. (See page 29)

Poking Fun at Advertising

Remember Fastcard for the irrational? Tush beer? These parodies from the American Comedy Network—based in Bridgeport, Conn.—offer irreverent humor to more than 130 radio stations across the country. Fake commercials are their forte, and major TV and radio campaigns their fodder. (See page 36)

Beware the Merger Monster



Mergers can swallow shops in a gulp.

When management meets behind closed doors, phones keep ringing with headhunters' calls and resumes keep filling the "out" basket, it means one thing: a merger or acquisition is looming. Columnist Ed Buxton knows the warning signs. (See page 38)

Other Features

Accounts in Review.....	5
New Product Watch.....	42
Running Your Own Agency.....	43
What's New Portfolio.....	45, 46, 50
Media Notes.....	52
Agency Stock Watch.....	62
Stan Mack.....	66
Corridor Talk.....	66

The Bull Beats Appelman to BJK&E

CD Says Merrill Lynch Win Ruined 'Burst of Glory'

By Gail Belsky

NEW YORK—Bill Appelman—the new executive creative director of Bozell, Jacobs, Kenyon & Eckhardt/N.Y.—never dreamed that agency would win the \$60-million Merrill Lynch account last week. The victory, in fact, wrecked his grand plan to leave incumbent Young & Rubicam in a "burst of glory." And while the Merrill Lynch bull was still in temporary retirement until its planned return to TV this September, the politics of this agency review were full of it. Among the questions raised were:

- Did the friendship between BJK&E ceo Chuck Peebler and Merrill Lynch chairman Bill Schreyer color the review (even though Schreyer also has a long-standing association with another agency finalist, Grey chairman Ed Meyer, and despite the insistence of other finalists that the review was a fair fight)?

- Where did Appelman's loyalties lie (and BJK&E's, for that matter) as he pitched to save a large account for the agency he planned to leave while holding secret contract negotiations with the competing shop that ultimately won the business?

- Why did Appelman wait until the morning of the review decision to resign from Y&R, although he had planned to quit right after the final presentations?

At presstime, Appelman still had not signed his contract with BJK&E. He said he gave the contract to his lawyer last Wednesday, although it had arrived a few weeks ago.

Appelman, who led Y&R's creative pitch to save the Merrill Lynch business, resigned last Monday just as the agency learned it had lost its client of seven years. Three days earlier, Appelman and Y&R chief Alex Kroll had made their final creative presentation in the three-month review.

"The timing was so dumb that only people who were honest and innocent would do such a thing," said Appelman.

Merrill Lynch was not affected by Appelman's move, according to ML svp/communications Jim Murphy, since he won't be working directly on the account at BJK&E. "I did not know anything about Bill Appelman [leaving Y&R] until Alex Kroll called me on Monday," said Murphy. "All this publicity is very unfortunate."

The newly merged BJK&E first approached Appelman last fall—before Y&R moved him onto the Merrill Lynch account for the second time and before the client launched its review.

BJK&E were clear: an opportunity to run a \$300-million creative department and a three-year contract with a reported \$375,000-a-year salary. The contract did not include an incentive package.

"I was one of four creative group directors at Y&R," he said.

"I knew [ed John] Ferrell had no intention of leaving."

When BJK&E chief creative officer Stephen Frankfort formally offered him the post in January, Appelman took the job but chose to remain at Y&R until the review was over.

To do otherwise, he claimed, would be like "switching armies in mid-battle." Frankfort, along with Peebler and BJK&E vice chairman David Bell, reportedly agreed with him.

Bill Appelman

"We were naive and stupid," Appelman said on behalf of himself and his new employers. "I didn't think how it would look if Y&R didn't get the account."

And Appelman just knew he could retain the Merrill Lynch account for Y&R, having worked on the business for six years.

"How dandy to leave with the account still at Y&R... how classy," he said. "In retrospect, it smacks of incredible megalomania."

But Y&R's relationship with Merrill Lynch had changed since Appelman left that account a year-and-a-half ago. At that time, he recalled, "there was new management, and I felt that Jim Murphy wanted a change [in advertising]. He was interested in exploring other options."

The option that Merrill Lynch finally chose last spring was to retire its bull for a while, and focus on financial services.

"The bull is such a strong image, but it stopped short of what we wanted to say about ourselves," said Murphy. "We were gearing toward relationship management."

The new campaign was designed to improve relations with consumers and with Merrill Lynch's sales force.

But the sales force missed the bull and disliked the new docu-drama spots because they gave oversimplified solutions to complex financial problems. "We heard questions of believability," Murphy said. "We knew this case-history approach was difficult, but we were more optimistic. It didn't work."

Appelman: "In retrospect, it smacks of incredible megalomania."

CREATIVE SOLUTIONS

'Life's a Beach' for Swatch

By Debbie Seaman

NEW YORK—Fortunately for ad agencies, there are not many clients like Swatch USA.

To save money and time and to eliminate levels of administration, Swatch likes to make its commercials directly through a production company, eliminating the agency entirely. The most recent example of this practice is a spot which, while promoting Swatch's sportswear and accessories, is a 30-second celebration of Swatch, sun and sand—but no sea.

The commercial, titled "Life's a Beach," is the brainchild of Swatch vp/marketing

Funwear and Fungear products.

Then, just when we thought it was safe to assume we're in the desert, we see at the end of the spot a shark fin cutting through the sand in front of the kiosk.

Rechtschaffner's original concept for the spot featured free-style skateboarders and bicyclists, but he decided that this wasn't original enough. In conversations with independent film producer Greg Stump, he developed the sand sport idea.

Rechtschaffner, who formerly was Swatch's creative director, at first wanted to direct the spot himself but decided

that "it has to be the worst conflict in the world to be a client and a director," he said. When a friend referred him to Real Productions producer Joan Sauers, Rechtschaffner decided that Sauers and director Richard DeLigter could do the job well.

The pair, each sporting Swatch Watches, sat last week in Real Productions' new quarters in the Chelsea section of Manhattan to discuss the making of the spot.

"We made a list of every conceivable visual we wanted and created a structure and a story line," DeLigter remembered.

The team imagined all sorts of gimmicks, ranging from helicopter shots to synchronized "swimmers" half-buried in the sand, to real dolphins leaping from tanks below the surface of the sand. DeLigter pointed out, however, "We walked

into this with a bottom line so the entire creative process was based on the ability to do it within the budget." So the team "rose above" the problem by opting for crane shots and chose the more feasible shark fin to "get



A windsurfer gets ready to roll.

fashioned of Styrofoam and maneuvered on a track submerged in the sand.

Rechtschaffner and the Real Productions crew—including director of photography Robert Liiv of Camera Masters in Astoria, N.Y.—traveled to the sand dunes near Yuma, Ariz., to shoot "Beach." Getting all the equipment out to the location was a trying task in itself, as some of it had to be hauled in by tractor. "It was a major motion picture," testified Sauers. "It looked like 'Road Warrior'

The kicky commercial is low on copy, high on visuals and action.

with all the vehicles and strange crowds of people."

Some of the talent was local and others imported, such as Craig Yester, Tom Selleck's stunt double for "Magnum P.I.," who is a "world-class windsurfer," and "snowboarders" Steve and Mike Hayes from Vermont. The bottoms of the skis and boards had been treated with Formica to facilitate their journey over the surface of the sand, and the windsurboard rolled on wheels.

Sand was a top concern during the shoot, especially on the last windy day, and camera equipment had to be carefully cleaned each night. "We were concerned the sand would get into the equipment and scratch the negative or hurt the equipment," DeLigter said. "But once again we were blessed."

Noting that "to be different is what

motivates Swatch advertising," Sauers said it was not until the Swatch spot was shot that everyone heard about Grey Advertising's extravagant Timex spot filmed entirely underwater. "When we read about the giant T-



Just when we thought it was safe to assume we're in a desert...

Steve Rechtschaffner, who decided to create a spoof on the classic, All-American soft drink commercial. He envisioned Beautiful People, dressed in Swatch splendor, frolicking at all the popular water sports, without a drop of water around.

To realize this vision, Rechtschaffner went to Real Productions in New York, which handled scripting, storyboards, casting, music production and editing as well as the film production. The finished product is a kicky commercial that is low on copy, high on visuals and action, driven by music, composed and arranged by Larry Nachsin.

The spot opens on a kiosk we might see at a beach, except it has an enormous blue-and-pink Swatch watch on top of it and is filled with Swatch products.

The next series of fast cuts includes everything from a lifeguard and a dog (in sunglasses) to a windsurfer (or sand-

